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# *Senate*

## RAILROAD DEFICIT REDUCTION FUEL TAXES

Mr. CHAFEE. Unfortunately, I understand the conference agreement on H.R. 2014 takes no action to equalize the rate of deficit reduction fuel taxes paid by the various modes of transportation. As the distinguished chairman of the Finance Committee and I have discussed, an obvious inequity currently exists which requires that railroads pay a 5.55 cents-per-gallon fuel excise tax, while all other modes of transportation pay no more than 4.3 cents-per-gallon for this purpose. In fact, by transferring deficit reduction taxes paid by other transportation users, including truckers which compete with the railroads, into trust funds for infrastructure improvements, we exacerbate the current inequity. Railroads continue to contribute to deficit reduction, while their competitors instead contribute to their own infrastructure.

If transportation is to be singled out for deficit reduction, the burden of contributing to a balanced budget should be shared equally among all modes. While I regret that no solution to this problem was possible in this legislation, I hope you share my belief that the fuel tax inequity imposed on the Nation's railroads must be remedied at the earliest opportunity.

Mr. ROTH. As the Senator from Rhode Island knows, I am deeply concerned about the unfair situation faced by railroads. While we were unable to include a solution to this problem in H.R. 2014, it is my hope that we will have the opportunity to pursue such a remedy as quickly as possible, perhaps in the upcoming ISTEA reauthorization legislation.

Mr. CHAFEE. Let me express my appreciation to the Chairman, Senator ROTH, for his interest in this important issue. I look forward to working with him on this matter during the upcoming ISTEA legislation.

Mr. FAIRCLOTH. Mr. President, I rise in strong support of the tax bill, H.R. 2014.

Mr. President, this is a major tax cut for the American people—more than $90 billion in tax relief.

This is the largest tax cut for the American people since 1981.

In terms of education, the provisions are very significant. My legislative priority for this year has been a tax credit for community college students of any age to improve their job skills. On the first day of this Congress, I introduced S. 50, a bill to provide a $1,500 tax credit for community college students. Technology has brought about rapid change in the workplace, and the need to update one's skills on a daily basis is critical. I think the community college system is the best job training program we have in this country. North Carolina has been a leader in education and in job growth. There is a strong link between the two. The tax bill will provide a 100-percent tax credit for the first $1,000 of expenses for attending a community college or the first 2 years of college. It will provide a 50-percent credit for of the next $1,000. In sum, it's a $1,500 tax credit for all of America's community college students. I was a strong supporter of this provision, and I am pleased it has been retained and improved.

The legislation also provides an interest deduction for student loans. Under the bill, State prepaid tuition plans will receive tax-free treatment. And, the bill permits penalty free withdrawals from IRA's for education expenses. All of these provisions will improve our education system without spending more money on bureaucrats or Government programs.

For families, the bill has significant tax relief. We have provided a $500 tax credit for children under the age of 17. For a family of four making $30,000—this is a 50-percent tax cut. For a family of four making $50,000, this is a 21-percent tax cut.

Mr. President, this is major tax relief for America's working families. For too many years, these families, working men and women have been the backbone of America, going to work every day, paying the mortgage, raising families, and paying their taxes and their debts. The Government has put a greater and greater tax burden on them every year. This tax relief is long overdue. In fact, it's 16 years overdue. Their last tax cut was 1981. There have been plenty of tax increases in the intervening years.

Mr. President, there are a number of other positive items in this tax bill. For example, the bill: Cuts capital gains taxes; cuts the capital gains on the sale of one's home; provides greater estate tax relief, particularly for small family-owned businesses and farms; accelerates the phasein of self-employed health insurance tax deduction; and provides a more generous IRA for at-home spouses.

Mr. President, we should not lose sight of the fact that the Republicans have now controlled Congress for 3 years. We have finally overcome the President's opposition and cut taxes. In 1993, President Clinton passed the largest tax increase in American history. To me, this is a stark contrast in philosophy. If the Senate was not in Republican hands, we would be debating the size of the tax hike, not the tax cut. Although the White House has at times tried to blur the differences, it should not be lost on the American public that wasteful Government spending is going down, and taxes are being cut for the first time in years.

The battle for greater tax relief does not end here. The Tax Code has to be simplified dramatically. Overall tax rates are too high. Americans are working until May just to pay taxes. We need to set a protection into law that not more than 25 percent of one's wages can be taken in taxes.

I can assure the Senate and my constituents in North Carolina that I will

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

continue my work for greater tax relief.

Thank you, Mr. President, I am pleased to support this bill.

Mr. LAUTENBERG. Mr. President, I rise in support of the conference report on the tax reconciliation bill.

Mr. President, before I begin to discuss this legislation, let me take a moment to again congratulate the chairman and ranking member of the Finance Committee, Senator ROTH and Senator MOYNIHAN, for their leadership on this legislation. Both these distinguished Senators reached out to Members on the other side of the aisle to make this happen, and they deserve enormous credit for their leadership.

Mr. President, I am supporting this legislation for four primary reasons. First, it will help ordinary, middle-class families and especially their children. Second, it will promote education. Third, it will help clean up our environment and promote economic development. And, fourth, it's part of a broader bipartisan agreement that will balance the budget and prepare our Nation for the 21st century.

First, Mr. President, this legislation would provide valuable assistance to middle-class families in the form of a $500 tax credit for children under the age of 17. This credit will help millions of ordinary people who are raising their children, working hard, and struggling to pay their bills. For these Americans, an extra $500 or $1,000 per year can go a long way. And, so long as our Nation can afford to provide this relief in the context of a balanced budget, I think it's the right thing to do.

Mr. President, I am especially pleased that the child tax credit included in this legislation will be available to lower income families who also qualify for the earned income tax credit, or EITC. This proved to be one of the most contentious issues in the conference, much to my surprise. Yet some around here argued that providing direct tax relief to police officers, nurses, and teachers somehow amounted to welfare. I never understood the logic of that. But, fortunately, Democrats made this a top priority. And, in the end, these hard-working Americans will be able to benefit from the child tax credit.

Mr. President, the second major element of this legislation is the section that promotes education. The bill includes a $1,500 tax credit to help students afford the first 2 years of college. In addition, there's a tax credit worth up to $1,000 for those who want to pursue additional education beyond that.

This latter benefit will be available to adults of all ages. And it's especially important. In an increasingly technological age, education must be a lifelong process. And it's something that we should encourage and support.

Mr. President, the third major reason why I'm supporting this legislation is that it includes new incentives to clean up thousands of contaminated, abandoned sites in economically distressed areas. That not only will improve the environment, but it will help encourage redevelopment of these areas, known as brownfields. It's a win-win approach that will make a real difference for communities around our Nation.

Mr. President, the final reason I am supporting this legislation is that it's part of the broad bipartisan budget agreement that I helped negotiate with leaders from both parties and the President. That agreement will provide several benefits outside the tax area that we never could have achieved without this broader compromise.

We're getting $24 billion to provide health care coverage for uninsured children. We're restoring disability benefits for legal immigrants. We're ensuring that 30,000 disabled children don't lose their Medicaid coverage. We're investing $3 billion to move people from welfare to work. And the list goes on.

None of these important advances would have been possible without a broad bipartisan agreement. And to get that agreement, Democrats had to accept some significant new tax breaks that we otherwise would have resisted.

Mr. President, I, for one, do not share the faith of my Republican friends that cutting taxes for rich Americans is the ticket to economic growth. We've tried trickle-down economics in the past. And it's proved not only unfair, but ineffective in promoting the economy.

Most Democrats have a different approach, Mr. President. We like to focus on tax cuts for ordinary Americans. The people who work hard, raise their kids, and who often have a hard time keeping their heads above water.

In other words, Mr. President, rather than showering tax breaks on the rich and having that money trickle down, we'd rather provide relief to ordinary Americans, and allow those funds to flow back up.

Fortunately, Mr. President, while this bill does contain some new tax breaks for the very wealthy, the bulk of its benefits are focused on the middle class. The most expensive element in the package is the child tax credit. The next most expensive area is education. Both of these types of tax relief are targeted on people who really could use the help.

Having said that, Mr. President, there clearly are other provisions, such as the capital gains rate cut and the backloaded IRA, I'm concerned about the costs of these new tax breaks, especially in the future. If it were up to me, I would have done much more to constrain those costs.

But, Mr. President, these provisions were necessary to reach the broader agreement. There simply would not have been a deal without them. And so, on the whole, many on this side of the aisle felt that this was the price we had to pay to get the other benefits in the budget agreement.

At least, Mr. President, the legislation before us does not include some of the more egregious proposals that would have exploded the deficit in the future.

But the bottom line, Mr. President, is that, though it has real flaws, I am going to support this legislation. And I would encourage my colleagues to do likewise.

No, it's not perfect legislation. But it's part of a compromise that will do a lot of good. It provides significant tax relief to middle-class families. It will help millions of Americans afford college. It will encourage millions of others to pursue their educations throughout their lives. It will lead to the cleanup and redevelopment of many abandoned sites around our nation. And it's part of a bipartisan plan that will balance the budget and prepare our Nation for the next century.

Mr. SPECTER. Mr. President, I am pleased to vote in favor of the Taxpayer Relief Act, which will provide the first significant tax cut to working Americans in 16 years.

Although I still believe that we ought to move to a system of a fairer, flatter tax without myriad exemptions and deductions, this bill represents an important first step toward relieving the tax burden on working Americans and families. This tax bill provides a net tax reduction of $96 billion over 5 years while remaining on a glide path toward a balanced budget.

Specifically, I am pleased that the final package includes a $500 per child tax credit, tax incentives for education, including education IRA's, a modified Hope Scholarship and tax free treatment of State prepaid tuition plans. It also takes important steps toward expanding participation in IRA's, a reduction in the capital gains tax and AMT, and incentives for small business by reinstatement of the home office business deduction and an acceleration in the phase in of the self-employed health insurance deduction.

On estate taxes, an area where I have long believed that we must have relief, this bill would help family farmers and small businesses by increasing the exclusion to $1.3 million. It would also increase the exclusion for families to $1 million over 10 years.

In conclusion, Mr. President when combined with the budget savings bill passed earlier today, we have made real progress on putting our financial house in order and providing necessary tax relief to millions of Americans.

REPEAL OF LIMIT ON SEC. 501(C)(3) BONDS

Mr. MOYNIHAN. Mr. President, one provision of H.R. 2014 would repeal the $150 million limit on section 501(C)(3) bonds. This is a change I have long sought, and I am grateful for my chairman's support for this change. It is my understanding that the intention of the provision is that bonds that meet the requirements of the bill will be eligible for tax-exempt treatment without being subject to the $150 million limitation. Furthermore, these bonds will not be taken into account with respect to other qualified section 501(C)(3)

bonds that are subject to the $150 million limitation, which bonds may continue to be issued on a tax-exempt basis to finance and refinance expenditures as permitted under existing law.

Mr. ROTH. I agree with the Senator's interpretation of this provision of the bill.

Mr. ALLARD. Mr. President, I must admit that I was less than pleased with the spending portion of the budget reconciliation package. I regret that I was unable to give that section my support. Unfortunately, we failed to address the problem of growth in entitlement spending. We passed on making some needed reforms to the Medicare system. We owe our children and grandchildren much more, Mr. President. I am much more pleased with the tax portion of the budget reconciliation package. One of my primary goals has always been to reduce the tax burden on hard-working Americans. I am proud to say that we will take a step toward this goal today. For the first time in 16 years, we give the American people a measure of tax relief. I am especially pleased that we are taking steps to reduce two of the most onerous and economically harmful taxes—the capital gains tax and the death tax.

Mr. President, with this act today, we will move in the direction of protecting family farms and businesses from Uncle Sam's grasping arms. Under current law, many family farms and small businesses have to be sold off just to pay the taxes on the founder's estate. This is tragic and irresponsible. But today, we will change that law to allow estates containing small businesses and family farms to deduct the first $1.3 million of the value of the estate. This change in death tax law is a good step in the right direction, although I must emphasize that it is only a first step. No family owned business or farm should have to be sold to pay death taxes. I will continue to fight to see that no family owned business is ever again the victim of the Federal Government's insatiable appetite for more money.

We also make some good progress in the area of capital gains tax relief in this bill. Under current law, the U.S. has one of the highest capital gains tax rates in the world. These high rates have the perverse effect of punishing those who help our economy to grow by saving and investing and they raise the cost of capital, thereby lowering growth in productivity. With this bill today, we will reduce this economically harmful tax.

Although we did not get the indexing provisions that I championed, most investors will get a reduced rate of 18 percent if they hold an asset purchased after 2000 for more than 5 years. Low-income investors will be charged an even lower rate of 8 percent for long-term investments. In addition, we are reducing the rate on all capital. Most taxpayers will now be charged a 20 percent rate and those in the lowest income bracket will only have to pay 10 percent. The 43 percent of Americans that now invest in stocks in one form or another will benefit from these provisions.

Mr. President, I am pleased with these steps that we are taking today to reduce these economically harmful and unfair taxes, and I am proud to say that I will support this portion of the budget reconciliation package. I look forward to working with my colleagues in the future to enact further tax reduction measures that will help our family farms and small businesses.

Mr. HUTCHINSON. Mr. President, the United Kingdom deregulated its electric utilities in 1990. There is now a central power pool. Power stations with capacities of over 10 megawatts are ordinarily required to sell all electricity generated into the pool. Consumers buy from the pool or from regional electric companies that buy from the pool

Thus, for example, if an independent generator wanted to build a power station to supply electricity to an oil refinery in England, it might lease land from the refinery and build the power station. However, a direct sale of electricity to the refinery would not be permitted. The generator would sell electricity to the pool, and the refinery would buy from that pool. The pool prices change each half hour based on demand and supply and, therefore, fluctuate frequently.

The refinery will want protection against price fluctuations. Consequently, it will enter into a contract for differences with the generator. The parties will agree on a schedule of fixed prices that the generator would have charged had the generator been free to make a direct sale. When the pool price exceeds the agreed price in the schedule, the generator will pay the refinery the difference. The refinery will pay the generator the difference when the pool price is less. Thus, the differences contract is a way for both parties to buy certainty. The generator is certain of his revenue stream. The refinery is certain of how much electricity will cost over an extended period. It is a hedging agreement.

It my understanding that the relevant provision in the bill does not turn payments under such differences contracts into subpart F income. Would the Chairman clarify this understanding?

Mr. ROTH. The legislation is not intended to affect arrangements which do not constitute notional principal contracts under present law. In addition, the legislation is not intended to change the treatment of notional principal contracts entered into as part of a hedging arrangement referred to elsewhere in section 954.

Mr. HUTCHINSON. I thank the Chairman.

AMTRAK

Mr. MCCAIN. Mr. President, the conference agreement to H.R. 2014 includes a provision to provide Amtrak up to $2.3 billion during the next 2 years. This funding provision would be provided in the form of tax credits. While I have already made my concerns known regarding this provision, I note that it would require enactment of reform legislation prior to the Treasury providing these credits to Amtrak.

As Chairman of the Senate Committee on Commerce, Science, and Transportation, which has jurisdiction over Amtrak, I would like to ascertain for the record what the authors of this tax credit provision envision would constitute reforms. Since I was not a conferee, I would appreciate the majority leader clarifying this matter and explaining the conferees intent.

Mr. LOTT. I would be happy to offer clarification to the Chairman of the Amtrak authorizing Committee. As members know, we have spent significant congressional time working to develop comprehensive Amtrak reform and reauthorization legislation. As Members further know, I worked for 2 years on a bipartisan reform package in the 104th Congress. Senator HUTCHISON has picked up this legislation effort and has worked diligently to advance the process. However, we cannot justify new Federal subsidies for Amtrak unless we also fix the many impediments imposed by statute which prevent Amtrak from operating like a business. Comprehensive reforms in the areas of Amtrak operations, labor, and liability must be enacted if we are serious about addressing Amtrak's financial crisis. Amtrak cannot survive without these fundamental changes. Money alone will not address Amtrak's systemic problems.

Mr. MCCAIN. I thank the majority leader for his comments. From your description, the reforms you envision to release this new funding for Amtrak are the type of reforms included for in S. 738, the Amtrak Reform and Accountability Act of 1997. That bill, sponsored by the Chairwoman of the Surface Transportation and Merchant Marine Subcommittee, Senator HUTCHISON, was approved by the Commerce Committee on June 26, 1997. I note that the sponsor of S. 738 is on the floor. I would like to ask what her intentions are for moving that bill.

Mrs. HUTCHISON. Thank you. I had hoped we would be able to accomplish the necessary Amtrak reforms within the context of this tax bill. I believe that Members of the Senate from both parties were prepared to do that. Given that Amtrak has warned us it could reach bankruptcy by the spring of 1998, the reforms embodied in S. 738, which include labor reforms and limits on liability, are simply critical. I am committed to moving S. 738 as soon as possible after the August recess. The Chairman of the House Transportation and Infrastructure Committee shares my commitment to provide honest legislative reforms in order to release the tax credits to Amtrak. I hope the majority leader will work with me to assure timely floor action.

Mr. LOTT. I look forward to having the full Senate consider the authorization legislation reported by the Senate Commerce Committee and will be happy to work with the Senator.

Mr. MCCAIN. I thank the majority leader and Senator HUTCHISON for clarifying this issue. The reform language in this tax bill linked to the release of tax credits clearly means comprehensive, substantive, meaningful reforms to ensure Amtrak operates more efficiently and to set up a process that will protect taxpayers if Amtrak does not meet its financial goals. Let there be no misunderstanding. There will be no new funding provided to Amtrak until we first enact legislation providing operational, labor and liability reforms. The hard working men and women whose tax dollars are subsidizing Amtrak deserve to have their contributions invested as responsibly as possible. I stand ready to work with the majority leader and the subcommittee chairman to bring this reform measure before the full Senate.

Mr. THURMOND. Mr. President, I rise to support the Tax Relief Act of 1997. I commend the Finance Committee and the leadership, along with the Budget Committee, for their hard work.

This bill, along with the Balanced Budget Act of 1997, fulfills our promise to the American people—to restrain Government spending, and to bring Tax Relief to the American people.

This tax reduction act has some tax relief for all Americans, at all stages of life. The child tax credit will boost the family budget for parents with children.

Homeowners, and others with capital assets will benefit from the capital gains tax reduction. The education provisions will encourage savings and assist all students. The bill has provisions for savings and investment, and for businesses. This will encourage economic growth and promote employment. Finally, there are estate tax reforms which will help preserve family businesses and farms.

Mr. President, this Nation has waited too long for a balanced budget—nearly 30 years; and it has been 16 years since we have delivered any significant tax relief. These measures passed today keep us on the track of smaller government and a strong economy.

I am proud to support this measure, because it is good for the people of South Carolina and good for the Nation. It is a good down payment toward a simpler, fairer, and less burdensome tax system.

Finally, Mr. President, these two bills put us on course to fiscal responsibility. We must continue to keep spending within the limits of our resources, and begin to reduce the national debt. We owe no less to our children and grandchildren.

Mr. ENZI. Mr. President, I rise in support of H.R. 2014, the conference report on tax relief. Through this tax package, we can give the American people the first serious tax reduction package in 16 years. This legislation provides tax relief to families with children, it offers greatly needed relief for small business, and it encourages education and investment. Finally this legislation gives some relief to individuals and small businesses from the punitive Federal death tax. I commend the Chairmen of the Finance and Budget Committees and the other conferees for their hard work on this package. We must realize that we still have a long journey ahead in relieving the tax burden on American taxpayers and in simplifying the cumbersome tax code.

Mr. President, our tax burden in this country is overwhelming. We tax income, we tax investment, and we tax savings. In fact, we have pretty well figured out a way of taxing a person from the time he gets up in the morning to the time he goes to bed. From the time you wake up in the morning and have your first cup of coffee, you are paying sales tax. When you get in your car and drive to work, you are paying gasoline tax. As you work all day to support your family, you are also supporting the Government by paying income tax. When you go home and spend time with your family and finally go to bed, you are paying property tax. If you decide to make a telephone call or turn on the light switch, you get taxed for that too. This taxation on almost all your daily activities goes on your entire life and to add insult to injury, we even tax you when you die. It is a tragic situation in this country when most people spend more money on taxes than they spend on food, clothing, and shelter combined. It is time that we relieve this tax burden on our Americans.

Just as our tax burden is too high, our Tax Code is frustratingly complex. Like a critically-ill patient, the Internal Revenue Code is in desperate need of surgery. We have continued to operate our Tax Code with layer after layer of bandages while ignoring the gasps of the dying patient beneath. This complexity has often left even the professional tax preparers in a quandary about the meaning of the myriad of code provisions and revenue regulations. When even the experts cannot understand our Tax Code, it is time for meaningful reform.

I had the pleasure of conducting a small business committee field hearing in Casper, WY, this past April in order to find out the concerns facing many of our small businesses. One of the consistent messages I received from the hearing was that the complexity of our Tax Code is strangling small businesses. Even the representatives from the accounting profession testified that our Tax Code is in desperate need of simplification. They are concerned about their own liability because they cannot even count on representatives of the Internal Revenue Service to understand the Tax Code they attempt to enforce. I have found that many of these accountants are reluctant to simplify the code, however, because every time we've attempted to simplify the Tax Code, we have ended up raising taxes. We in Congress must begin by reevaluating our tax policy. We will be able to accurately chart our course only if we know where we are going.

This conference report takes an important step in lessening the tax burden on individuals and small businesses alike. This tax package provides broad-based tax relief for America's families. The $500-per-child tax credit would provide over $70 billion in tax relief for families over the next 5 years. The child credit has long been championed by the Republican Party as a means of helping in the evergrowing cost of raising families. Our Tax Code has failed miserably to keep up with the evergrowing demands of raising children. The current exemption for dependent children is less than one-half what it should be to keep pace with inflation. Many of America's families have two parents working with one working to pay the bills and the other working to pay the taxes. We should be working to strengthen our families in any way we can, and this credit will help in that effort.

Mr. President, this package moves us a step closer to the eventual repeal of the punitive death tax. This is an area I have taken a special interest in since the Federal death tax adversely impacts a large number of small businesses and farms in Wyoming. The death tax punishes people who work hard their entire lives in order to pass something on to their children. This bill increase the exemption for individuals and provides for a $700,000 exclusion for family owned businesses. This exclusion was an important priority for me. I joined several of my colleagues in urging the conferees to include a provision which excludes the death tax for family businesses and farms. We need to build on this foundation and work toward an eventual repeal of the Federal death tax.

Mr. President, this bill gets us closer to leveling the playing field between small businesses and their larger competitors. Most notably, it accelerates the phase in for the deduction of health insurance for the self-employed and it reinstates the home office business deduction. As a small businessman myself, I was pleased to see some tax relief going to those who form the backbone of our economy.

This legislation also encourages education by providing tax credits for tuition and expenses for college and technical school training as well as tax deductions for the interest on student loans. These tuition tax credits will provide the means for many students to pursue a college education or receive technical training. The tax deduction for individuals who have already invested in college or graduate education provide tax relief for one of the largest investments many people will make in their lifetime.

Mr. President, this package makes important strides toward encouraging

Americans to save and to invest for their future. We currently have a dangerously low savings rate in this country, and this is due in large part to our current tax structure which not only taxes income but it taxes savings. This bill expands the availability of tax-free Individual Retirement Accounts to include nonworking spouses and it creates a new ''super IRA'' the proceeds of which can be withdrawn tax-free for purposes such as first time home purchases.

We also provide relief for investment by providing for long-overdue capital gains relief. This bill cuts the top capital gains rate from 28 percent to 20 percent and reduces the 15 percent rate to 10 percent for assets held longer than 18 months. This reduction of the capital gains rate will benefit millions of Americans. A news report just this week showed that nearly one-half of Americans have some current investment in the stock market. Many companies have allowed their employees to invest in their future by buying stock in the company. Many of these employees have counted on this investment for retirement. This package provides relief for people who have planned wisely for their future.

Mr. President, I support his tax relief proposal because I believe we need to return some of the Americans' money back to them this year. This legislation will return over $90 million to those who have paid the taxes. It has been far too long since Congress has passed a tax relief package for the American families and small business, and I applaud this effort. We must not, however, believe that our work is done. Rather, it has just begun. We must now focus our attention and effort on the reducing the enormous complexity of the Internal Revenue Code. We need to set our sights on the clearly defining our Nation's tax policy, and then muster the reserve to implement our goals with simplicity and fairness. As the only accountant in the U.S. Senate, I fully realize the need of reforming a tax code so that it strengthens families, encourages enterprise and thrift, and rewards savings. I look forward to working with my colleagues in this most important endeavor.

I thank the Chair and yield the floor.

TAX INCENTIVES THAT PROMOTE FORESTLAND CONSERVATION

Mr. GREGG. Mr. President, I am very pleased that the Senator from Delaware [Mr. ROTH], included language in this tax bill, H.R. 2014, the Revenue Reconciliation Act, which promotes land conservation through the use of conservation easements and allowing the postmortem election of these easements. Still, I believe that more must be done in the future to ensure that forestland, especially in the Northeast, is preserved. This issue is of particular importance in the Northeast, where 85 percent of our forestland is in private ownership.

Mr. LEAHY. Mr. President, I agree with the Senator from New Hampshire, and I intend to work with him in a bipartisan manner to promote land conservation by pushing forward the recommendations made by the Northern Forest Lands Council in 1994. As highlighted in S. 552, the Forestland Preservation Tax Act, certain tax polices work against the long-term ownership and management of forestland and instead force landowners to sell or change the use of their land. H.R. 2014 begins to address this program with the provisions for conservation easements and estate tax relief for small businesses and family farms. In the Northeast, the timber production is part of our agriculture and faces many of the same challenges as family farms.

Mr. ROTH. I agree with both Senators and look forward to working with both of you on these issues in the future.

CHILD HEALTH PROVISIONS

Mr. MOYNIHAN. Mr. President, I would like to enter into a colloquy with Chairman ROTH to clarify the conference agreement as it relates to the children's health initiative. First, the issue of what benefits must be provided to children has been very important to us in this Chamber, on both sides of the aisle. Under the conference report, a State covering children under the new title XXI must offer at least the coverage listed under the options specified in section 2103(a). Do these options establish floors or ceilings?

Mr. ROTH. These four options are floors. States are given flexibility to design their programs, while meeting the standards of section 2103(a). States may also build upon the benchmark packages. With grant funds, States, if they wish, may provide additional benefit coverage, but they must provide at least the coverage described in section 2103(a). For example, a State may supplement the benchmark-equivalent package of the standard Blue Cross/Blue Shield plan for Federal employees by expanding vision, dental, and hearing services benefits.

Mr. MOYNIHAN. Another benchmark is the coverage for State employees. It is my understanding that this benchmark coverage is equivalent to the health benefit plans in which State employees are enrolled. Is that correct?

Mr. ROTH. Yes, this benchmark allows States to provide children with coverage benefits equivalent to the health benefit plans that enroll State employees.

Mr. MOYNIHAN. Another clarification. Is it intended that children, including those with special needs, receive quality care?

Mr. ROTH. The conferees expect State programs to provide access to appropriate treatment for special needs children. In addition, the new legislation is clear that children who are eligible for Medicaid under current law may not be shifted to the new program under title XXI. Medicaid coverage may not be rolled back and replaced by new insurance programs. For example, the new program cannot replace an existing medically needy program for children or existing Medicaid eligibility through waivers for children receiving home and community based care.

Mr. MOYNIHAN. I thank the distinguished chairman of the Finance Committee for his helpful remarks. I would also emphasize that, in the Finance Committee, members on both sides of the aisle strongly agreed that these child health grants should not supplant current State spending, and instead would supplement and enhance current State child health insurance programs. The conference report included such maintenance of effort provisions. To ensure a cost-effective grant program, Federal funds should not replace existing State spending.

Mr. NICKLES. Mr. President, the chairman of the Senate Finance Committee has worked closely with me on a provision in this bill to clarify the application of section 168(j) of the Internal Revenue Code to Indian lands in Oklahoma.

Section 168(j) was enacted in 1993 to provide accelerated depreciation for property placed in service on Indian reservations. Since Oklahoma has no formal reservations, the House of Representatives included a provision in their tax bill to clarify that lands in Oklahoma within the jurisdictional area of an Oklahoma Indian tribe and eligible for trust-land status would qualify for section 168(j).

As the chairman knows, the Senate receded to the House provision in conference. However, since the House leaves the interpretation of the provisions to the U.S. Department of the Interior, I believe it is essential that we clarify congressional intent.

There needs to be a ''bright-line'' test for determining which Oklahoma lands qualify for section 168(j) in order to treat Oklahoma fairly compared to other States and to avoid costly litigation. The Department of the Interior has indicated that ''lands in Oklahoma within the jurisdictional area of an Oklahoma Indian tribe'' would be defined as lands within boundaries of the last treaties with the Oklahoma tribes. This definition narrows the land area compared with current law by eliminating the unassigned lands.

Because I believe it is important that we clarify this matter, does the chairman of the Senate Finance Committee concur with my explanation?

Mr. ROTH. The Senator from Oklahoma is correct. I thank the Senator for his cooperation on this issue.

Mr. DOMENICI. Mr. President, pursuant to section 313(c) of the Budget Act I submit the following list of extraneous material for H.R. 2014, the Taxpayer Relief Act of 1997.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXTRANEOUS PROVISIONS—CONFERENCE REPORT ON H.R. 2014—TAXPAYER RELIEF ACT OF 1997

| Provision | Comments/Violation |
|---|---|
| Sec. 901 ..... | Deposit general revenue portion of highway motor fuels taxes into highway trust fund. Byrd rule (b)(1)(A): Produces no change in outlays or revenues. |
| Sec. 909 ..... | Require study of feasibility of moving collection point for distilled spirits excise tax. Byrd rule (b)(1)(A): Produces no change in outlays or revenues. |
| Sec. 910 ..... | Codify BATF regulations on wine labeling. Byrd rule (b)(1)(A): Produces no change in outlays or revenues. |
| Sec. 931 ..... | Delay penalties for failure to make payments through EFTPS until after 6/30/98. Byrd rule (b)(1)(A): Produces no change in outlays or revenues. |
| Sec. 954 ..... | Modification of empowerment zones and enterprise communities criteria in the event of future designations of additional zones and communities. Byrd rule (b)(1)(A): Produces no change in outlays or revenues. |
| Sec. 976 ..... | Combined employment tax reporting five-year demonstration project for Montana. Byrd rule (b)(1)(A): Produces no change in outlays or revenues. |
| Sec. 1031(d) ... | Dedicate 4.3 cents/gallon tax on aviation fuel to the Airport and Airway Trust Fund. Byrd rule (b)(1)(A): Produces no change in outlays or revenues. |
| Following provisions are from the Simplification section of H.R. 2014 | |
| Sec. 1223 ..... | Due date for furnishing information to partners of large partnerships. Byrd rule (b)(1)(A): Produces no change in outlays or revenues. |
| Sec. 1283 ..... | Repeal of authority to disclose whether prospective juror has been audited. Byrd rule (b)(1)(A): Produces no change in outlays or revenues. |
| Sec. 1284 ..... | Clarification of statute of limitations. Byrd rule (b)(1)(A): Produces no change in outlays or revenues. |
| Sec. 1285 ..... | Clarify procedures for administrative cost awards. Byrd rule (b)(1)(A): Produces no change in outlays or revenues. |
| Sec. 1310 ..... | Adjustments for certain gifts made within three years of decedent's death. Byrd rule (b)(1)(A): Produces no change in outlays or revenues. |
| Sec. 1314 ..... | Authority to waive requirement of United States trustee for qualified domestic trusts. Byrd rule (b)(1)(A): Produces no change in outlays or revenues. |
| Sec. 1412 ..... | Authority to cancel or credit export bonds without submission of records. Byrd rule (b)(1)(A): Produces no change in outlays or revenues. |
| Sec. 1413 ..... | Repeal of required maintenance of records on premises of distilled spirits plant. Byrd rule (b)(1)(A): Produces no change in outlays or revenues. |
| Sec. 1415 ..... | Repeal of requirement for wholesale dealers in liquor to post sign. Byrd rule (b)(1)(A): Produces no change in outlays or revenues. |
| Sec. 1417 ..... | Use of additional ameliorating material in certain wines. Byrd rule (b)(1)(A): Produces no change in outlays or revenues. |
| Sec. 1420 ..... | Authority to allow drawback on exported beer without submission of records. Byrd rule (b)(1)(A): Produces no change in outlays or revenues. |
| Sec. 1431 ..... | Authority for IRS to grant exemptions from excise tax registration requirements. Byrd rule (b)(1)(A): Produces no change in outlays or revenues. |
| Sec. 1432 ..... | Repeal of expired provisions. Byrd rule (b)(1)(A): Produces no change in outlays or revenues. |
| Sec. 1444 ..... | Repeal of expired provisions. Byrd rule (b)(1)(A): Produces no change in outlays or revenues. |
| Sec. 1451 ..... | Clarify Tax Court jurisdiction over interest determinations. Byrd rule (b)(1)(A): Produces no change in outlays or revenues. |
| Sec. 1503 ..... | Elimination of paperwork burdens on plans. Byrd rule (b)(1)(A): Produces no change in outlays or revenues. |
| Sec. 1510 ..... | New technologies in retirement plans. Byrd rule (b)(1)(A): Produces no change in outlays or revenues. |
| Sec. 1604(f)(3) | Coordination with tobacco industry settlement agreement. Byrd rule (b)(1)(A): Produces no change in outlays or revenues. |

RAILROAD DEFICIT REDUCTION FUEL TAXES

Mr. CHAFEE. Unfortunately, I understand the Conference Agreement on H.R. 2014 takes no action to equalize the rate of deficit reduction fuel taxes paid by the various modes of transportation. As the distinguished Chairman of the Finance Committee and I have discussed, an obvious inequity currently exists which requires that railroads pay a 5.55 cents-per-gallon fuel excise tax, while all other modes of transportation pay no more than 4.3 cents-per-gallon for this purpose. In fact, by transferring deficit reduction taxes paid by other transportation users, including truckers which compete with the railroads, into trust funds for infrastructure improvements, we exacerbate the current inequity. Railroads continue to contribute to deficit reduction, while their competitors instead contribute to their own infrastructure.

If transportation is to be singled out for deficit reduction, the burden of contributing to a balanced budget should be shared equally among all modes. While I regret that no solution to this problem was possible in this legislation, I hope you share my belief that the fuel tax inequity imposed on the Nation's railroads must be remedied at the earliest opportunity.

Mr. ROTH. As the Senator from Rhode Island knows, I am deeply concerned about the unfair situation faced by railroads. While we were unable to include a solution to this problem in H.R. 2014, it is my hope that we will have the opportunity to pursue such a remedy as quickly as possible, perhaps in the upcoming ISTEA reauthorization legislation.

Mr. CHAFEE. Let me express my appreciation to the Chairman, Senator ROTH, for his interest in this important issue. I look forward to working with him on this matter during the upcoming ISTEA legislation.

PUERTO RICO TAX INCENTIVES

Mr. D'AMATO. Mr. President, I joined with Senators MOYNIHAN, Chafee, HATCH, GRAHAM, and BREAUX recently in introducing S. 906, which would provide job creation incentives for our fellow 3.8 million American citizens in Puerto Rico. I am disappointed that these incentives were not included in the bill before us today, H.R. 2014, the Taxpayers Relief Act.

S. 906 had the unified support of the public and private sectors in Puerto Rico, was endorsed by the President, and has received bipartisan support in Congress. It was my goal to include this job creation incentive in today's legislation. But because of extreme economic constraints on available resources, this was not possible.

As a result of the changes made to tax incentives affecting Puerto Rico in 1993 and 1996, Puerto Rico has no Federal economic incentives to attract new businesses or jobs. Further, existing U.S. companies operating on the island have little incentive to make new investments or replace depreciating plant and equipment. This is inequitable and should be changed. Our fellow citizens in Puerto Rico, where there is an unemployment rate more than twice the national average, and well over 50 percent of its population living below the poverty line, can least afford to suffer economic setbacks.

Mr. President, I urge the Senate to consider S. 906, or other incentives for economic growth in Puerto Rico at the first available opportunity. This legislation provides a wage-based tax credit that encourages U.S. companies to stay and expand on the island.

We cannot wait until the damage is done. Puerto Rican Americans, no less than Americans living in the States, should be receiving the benefits of economic growth and job creation that the Taxpayer Relief Act provides to so many others.

Mr. BROWNBACK. Mr. President, I rise to make a few remarks on the tax cut package being considered before us today.

Not since 1981 have we been able to offer the American people as comprehensive a tax relief package as we are offering in this tax bill. Through this historic tax bill we will offer American families much needed tax relief in the form of $500 per child tax credit, capital gains tax rate cuts, as well as an increase in the unified credit exemption for death taxes. Families will also be able to save through tax relief for education expenses.

But this is just the beginning.

Cutting taxes and shrinking government spending are two things that will help to remove the obstacles that impede the progress of our economy. We must continue to cut taxes even more.

Current estimates by the Congressional Budget Office place our deficit this year around $45 billion. With a robust economy and continually declining deficits we could easily reach a balanced budget next year—we might even go into surplus for the first time in well over a generation—something that would truly make this budget deal historic.

In the spending portion of the budget deal the Administration has stated that the amounts agreed to are enough for the operation of the federal government. Although I believe that we need to reduce the size of the federal government even further.

We have a deal that limits government, we cannot and should not let government grow beyond what we have agreed to here today when revenues exceed the costs of the operation of the federal government.

The question is now upon us as to what we should do next—what we should do after having achieved the goals so boldly outlined just three short years ago. The debate is no longer about whether we should balance the budget or not—it's not about whether we should cut taxes or not—we have done those things. The debate before us is now in terms of a more limited government with lower taxes. The next question is now that we have agreed on the acceptable size of government what should we do next.

The short answer is we must continue to cut taxes.

Surpluses that are generalized either next year or five years from now must be used for further tax reduction. We must make it clear that our priority is to provide Americans with as much tax relief as possible—and using surpluses to provide additional tax relief makes that priority clear. Cutting taxes will continue to fuel the economy and will further unleash the potential of our economy to perform at full speed. For too long the Congress has worked to hinder the functioning of our economy by imposing a multilayered tax system that punishes success more than it rewards it.

We must continue to cut taxes and to make that our priority as we move into the next century.

Currently, whenever revenues come into the Treasury higher than estimated the revenues automatically go to deficit reduction and will eventually contribute to paying down the Federal debt once we are running a surplus.

I believe that it is critical that we continue to eliminate the deficit and pay down the debt—but we must do that in the context of lower taxes for the American people. We can do both—we can provide the American taxpayers with much needed tax relief and pay down the debt by allocating excess revenues to both tax reduction and debt reduction. But we must be vigilant in ensuring that excess revenues do not go to more Government spending; they must go to tax cuts and debt reduction alone.

We must continue to limit the size, scope, and intrusiveness of the Federal Government. We must further limit Government and force its shrinkage through a continuing effort to cut taxes.

And when we cut the size of Government further we must return the money to the taxpayers who have been forced to subsidize its woefully inefficient operations for much of this century. The taxpayers deserve a break.

Now, however, we must reject any notions of relaxing at having completed this historic budget deal. Rather, we must pick up again, and begin again, fighting for more tax relief, more tax cuts, and a smaller, less intrusive Federal Government.

The American people have said they want these things—now we must bind ourselves to provide those things—it would be irresponsible to do otherwise.

Thank you Mr. President, I yield the floor.

Mr. BOND. Mr. President, I rise today in support of H.R. 2014, the Revenue Reconciliation Act of 1997. This conference report is the product of months of effort by Members of the Senate as well as our colleagues in the other body and representatives of the administration. This legislation also represents the first real tax cut for the American people in over a decade. Today, Americans are bearing an enormous burden when it comes to income taxes. According to a recent study by the Tax Foundation, the per capita Federal tax burden has increased 36.5 percent since 1992 and 57.5 percent since 1988, largely because of the severity of the administration's 1993 tax increase.

In simple terms, the tax burden on Americans today is too high. Many Americans now pay more in taxes than they do for food, clothing, and housing combined. This bill takes a positive step toward easing that burden in an effort to let the hard-working men and women in this country keep more of the money they earn.

While the provisions of this bill reduces taxes in a variety of ways, I want to focus on two important groups who will benefit the most from this legislation—our American families and the millions of small businesses across the Nation.

FAMILY TAX RELIEF

Family tax relief is a critical part of the conference report that we consider today. The child tax credit has long been a Republican priority, and as a result of this bill, it is now a reality. Beginning in 1998, families will be able to claim a $400 credit per child, which will increase to $500 beginning in 1999. In addition, by making the credit available for children under age 17, we help many families when they need it the most. As a parent, I can attest to the fact that the costs of raising a child explode during the teenage years, and through this bill millions of parents will not have to struggle so much to meet those higher expenses.

The availability of this credit will benefit more than 43 million children and their families. In fact, the Joint Economic Committee estimates that a married couple in my State of Missouri who earn $30,000 a year and have two children will see their Federal tax burden cut in half. That means that those families will be able to keep significantly more of their hard-earned income and use it to put food on the table rather than subsidizing the huge Federal bureaucracy.

On the education front, the Revenue Reconciliation Act provides relief for millions of students seeking to better themselves and learn a trade or other profession. The bill establishes the Hope Scholarship and the Lifetime Learning tax credits, which will offset some of the high costs that families must bear to continue their children's education after high school.

In addition, this legislation will benefit nearly 5 million students through tuition tax relief in the form of State-sponsored prepaid tuition programs and new educational IRA's. These programs will allow parents to contribute to education savings accounts for a child beginning at an early age. As those contributions grow tax-free, a fund will be created to pay for tuition, room and board, and related expenses when the child goes to a qualifying college or vocational school.

For many students, however, higher education is only possible if they finance all or part of the expense through student loans. Unfortunately, after accumulating 4 years of such loans, these students often graduate into starting positions and large monthly loan payments. I am very pleased that this bill will assist over 7 million students in this situation by restoring a tax deduction for interest paid on student loans. This provision will help today's student who will not have had the benefit of the long-term educational savings accounts created under the bill, and it will recognize the responsibility and commitment that they undertook to achieve their higher education goals.

While this bill provides important tax relief for families with children and for young adults expanding their education, it also helps those planning for their retirement years. The bill reduces the limitations on individual retirement accounts and will enable more Americans to use IRA's to save for their retirement. The legislation will also encourage both spouses to save for retirement by permitting a nonworking spouse to contribute to an IRA regardless of whether the working spouse participates in a pension plan. These changes will not only ensure greater retirement security, but will also bolster our national savings rate, which is now one of the lowest among industrialized nations.

SMALL BUSINESS TAX RELIEF

Mr. President, as the chairman of the Committee on Small Business, I am very pleased that this legislation makes great strides for reducing the enormous tax burdens on the small businesses in this country. According to the Small Business Administration, small firms in this country employ 53 percent of the private work force, contribute 47 percent of all sales in the country, and are responsible for 50 percent of the private gross domestic product. In addition, industries dominated by small businesses produced an estimated 75 percent of the 2.5 million new jobs created in 1995.

In recognition of the important role that small entrepreneurs play in this country today, the Revenue Reconciliation Act contains several provisions that will help level the playing field for small businesses and encourage their continued growth and development. First and most important, the bill increases the deductibility of health insurance for the self-employed to 100 percent. This is truly a landmark victory for small entrepreneurs. For the first time, this legislation recognizes that self-employed business owners are entitled to the same tax treatment with respect to the deductibility of their health insurance costs as their large competitors have received for many years.

Earlier this year, I introduced legislation that would provide full deductibility of health insurance for the self-employed beginning this year. While I am disappointed that it will take 10 years under this bill to reach full deductibility, we are finally on the right path. Now we can turn our attention to realizing that 100 percent level at the earliest possible date. Greater deductibility will help the 5.1 million uninsured self-employed individuals and their 1.4 million children to have greater access to health insurance. It will also help the self-employed who are already insured to maintain the cost of a single person health-insurance policy, which in most cases is substantially more expensive than a group insurance policy.

A second major victory for home-based businesses is the restoration of the home-office deduction, which is a major goal of the Home-Based Business Act that I introduced earlier this year. For too long home-based businesses

have borne the inequality created by the Soliman decision, which radically limited the home-based businesses that could claim the deduction. Even more troubling is the fact that many home-based businesses that would arguably meet the current criteria for the deduction never claim it for fear of triggering an IRS audit. This bill puts home-based businesses on an equal footing with their larger competitors and clears the way for the continued success of these important entrepreneurs.

I am also pleased that we are able to provide a significant reduction in the estate tax for family owned businesses and farms. With less than one-third of family owned businesses currently being passed on to a second generation, and only about one-eighth passed to a third generation, estate tax reform for family owned businesses and farms is urgently needed. This legislation will provide a $1.3 million exclusion from estate tax for these family owned enterprises. In addition, the bill will increase the individual estate tax credit to $1 million by 2006. The result will not only be the preservation of many successful family owned businesses and farms that would otherwise have to be sold in order to pay the Federal Government, but it will also preserve the millions of jobs that these enterprises contribute to our local communities.

Small businesses will also benefit from the capital gains provisions in the bill. My committee has heard on many occasions that small businesses need greater access to capital. I can think of no better way to address that need than by opening up the billions of dollars of built-in gains that currently exists in our economy, which the capital gains tax reduction is expected to unleash. Small companies will also have greater capital access through the provisions in the bill that will allow tax-free rollover of gains from an investment in qualified small business stock into an investment in another qualified small business. This provision will foster investments in small businesses and encourage existing investors to repeat their success stories by rolling over their gains into new start-up companies.

Additionally, millions of limited partners, many of whom work in small limited partnerships and limited liability companies, can rest easy as a result of the moratorium included in the bill that will prevent the IRS from finalizing its proposed stealth tax regulation before July 1, 1998. This proposed regulation purports merely to define who is a limited partner. But in reality, the rule will raise taxes on millions of limited partners by regulatory fiat. The Constitution vests the power to impose taxes in Congress, and Congress alone. The moratorium included in this bill will stop the IRS from usurping that power and give Congress an opportunity to exercise its authority to find a statutory solution.

Finally, small business will have extended protection from IRS penalties under this legislation as a result of the 6-month extension of the penalty-free period for small businesses subject to the Electronic Federal Tax Payment System [EFTPS]. This past June, the IRS agreed to waive penalties through December 31, 1997, on small businesses who are required to pay their taxes electronically starting on July 1, 1997. The bill extends the penalty-free period through June 30, 1998, and will ensure that small firms will not be penalized if errors or problems occur. In addition, it will give Congress time to enact the legislation, which Senator NICKLES introduced and I have cosponsored, that would make EFTPS voluntary for most small businesses.

Mr. President, despite the many positive provisions in this bill for small business, there is one glaring omission—a safe harbor for independent contractors. The need for such a provisions was made clear by the 2,000 delegates to the 1995 White House Conference on Small Business who named it the most important issue for the President and the Congress to address. For too long millions of entrepreneurs and businesses that hire them have lived in constant fear that the IRS will use its now infamous 20-factor test to find that a worker was misclassified to the tune of thousands of dollars in back taxes, interest, and penalties, not to mention the enormous costs of accountants and attorneys necessary to fight the IRS.

No one disputes that the IRS has a duty to collect Federal revenues and to enforce the tax laws. The problem in this case is that the IRS is using a procedure that is patently unfair and is doing so on an increasingly frequent basis. It is time for companies, workers, and most especially the IRS, to have clear rules for determining the status of workers.

The legislation that I introduced earlier this year reaches that goal through a general safe harbor based on clear, objective criteria and a bar against retroactive reclassification of workers by the IRS. I remain committed to working with those on all sides of this issue to find an answer to this critical problem, and I call on my colleagues on both sides of the aisle to join with me in that endeavor. Let's end the environment of fear in which small businesses and self-employed individuals now must live. They should be able to spend less time looking over their shoulder for an IRS audit, and more time doing what they do best—contributing to the growth and strength of our economy and creating much-needed jobs.

Mr. President, the Revenue Reconciliation Act that we consider today will help Americans in so many ways, from raising children and educating them to helping small businesses continue to be the economic engine of this country. In addition, it is the culmination of so many of the efforts that we began more than 2 years ago to bring meaningful tax relief to hard-working Americans across this country. I urge all of my colleagues to support this important legislation.

Mr. ROTH. Mr. President, I ask unanimous consent that the distribution tables for 1998–2002 on the conference report to H.R. 2014, the Taxpayer Relief Act of 1997, as prepared by the Joint Committee on Taxation be printed in the RECORD.

The distribution tables show that the Taxpayer Relief Act of 1997 is a substantial tax cut for America's overtaxed middle-income families.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

DISTRIBUTIONAL EFFECTS OF THE CONFERENCE AGREEMENT ON THE REVENUE PROVISIONS [1] OF H.R. 2014

[Calendar year 1998]

| Income category [2] | Change in federal taxes [3] | | Federal taxes [3] under present law | | Federal taxes [3] under proposal | | Effective tax rate (percent) [4] | |
|---|---|---|---|---|---|---|---|---|
| | Millions | Percent | Billions | Percent | Billions | Percent | Present law | Proposal |
| Less than $10,000 | −$26 | −0.5 | $5 | 0.4 | $5 | 0.4 | 5.4 | 5.4 |
| 10,000 to 20,000 | −1,870 | −5.9 | 31 | 2.5 | 30 | 2.4 | 8.5 | 7.9 |
| 20,000 to 30,000 | −3,477 | −4.9 | 70 | 5.6 | 67 | 5.4 | 13.7 | 13.0 |
| 30,000 to 40,000 | −4,244 | −4.3 | 98 | 7.8 | 93 | 7.6 | 16.5 | 15.8 |
| 40,000 to 50,000 | −3,372 | −3.3 | 103 | 8.2 | 99 | 8.1 | 17.7 | 17.1 |
| 50,000 to 75,000 | −6,628 | −2.6 | 251 | 20.0 | 244 | 19.9 | 20.2 | 19.6 |
| 75,000 to 100,000 | −3,242 | −1.7 | 193 | 15.4 | 189 | 15.4 | 23.1 | 22.6 |
| 100,000 to 200,000 | −178 | −0.1 | 251 | 20.0 | 251 | 20.4 | 25.1 | 24.8 |
| 200,000 and over | 1,076 | 0.4 | 251 | 20.0 | 252 | 20.5 | 30.2 | 28.6 |
| Total, all taxpayers | −21,961 | −1.8 | 1,253 | 100.0 | 1,231 | 100.0 | 20.7 | 20.1 |

(1) Includes child credit, capital gains reform, education incentives, IRA expansion, self-employed health deduction increase, EIC reduction, individual AMT depreciation conformity and relief for farmers, and air travel taxes attributable to personal travel. Does not include increases in the cigarette excise tax.

(2) The income concept used to place tax returns into income categories is adjusted gross income (AGI) plus: [1] tax-exempt interest, [2] employer contributions for health plans and life insurance, [3] employer share of FICA tax, [4] worker's compensation, [5] nontaxable social security benefits, [6] insurance value of Medicare benefits, [7] alternative minimum tax preference items, and [8] excluded income of U.S. citizens living abroad. Categories are measured at 1997 levels.

(3) Federal taxes are equal to individual income tax (including the outlay portion of the EIC), employment tax (attributed to employees), and excise taxes (attributed to consumers). Corporate income tax is not included due to uncertainty concerning the incidence of the tax. Individuals who are dependents of other taxpayers and taxpayers with negative income are excluded from the analysis.

(4) The effective tax rate is equal to Federal taxes described in footnote (3) divided by: income described in footnote (2) plus additional income attributable to the proposal.

Source: Joint Committee on Taxation.

Detail may not add to total due to rounding.

DISTRIBUTIONAL EFFECTS OF THE CONFERENCE AGREEMENT ON THE REVENUE PROVISIONS [1] OF H.R. 2014

[Calendar year 1999]

| Income category [2] | Change in federal taxes [3] | | Federal taxes [3] under present law | | Federal taxes [3] under proposal | | Effective tax rate (percent) [4] | |
|---|---|---|---|---|---|---|---|---|
| | Millions | Percent | Billions | Percent | Billions | Percent | Present law | Proposal |
| Less than $10,000 | −$33 | −0.7 | $5 | 0.4 | $5 | 0.4 | 5.7 | 5.6 |
| 10,000 to 20,000 | −2,051 | −6.5 | 32 | 2.4 | 29 | 2.3 | 8.3 | 7.8 |
| 20,000 to 30,000 | −3,955 | −5.5 | 72 | 5.5 | 69 | 5.4 | 13.6 | 12.9 |
| 30,000 to 40,000 | −5,088 | −5.0 | 101 | 7.7 | 96 | 7.5 | 16.5 | 15.6 |
| 40,000 to 50,000 | −4,115 | −3.9 | 107 | 8.1 | 102 | 8.0 | 17.5 | 16.8 |
| 50,000 to 75,000 | −8,255 | −3.2 | 259 | 19.8 | 251 | 19.6 | 20.0 | 19.3 |
| 75,000 to 100,000 | −4,358 | −2.1 | 204 | 15.6 | 200 | 15.6 | 23.0 | 22.4 |
| 100,000 to 200,000 | −1,101 | −0.4 | 264 | 20.2 | 263 | 20.6 | 25.1 | 24.7 |
| 200,000 and over | −1,893 | −0.7 | 264 | 20.2 | 262 | 20.5 | 30.2 | 28.7 |
| Total, all taxpayers | −$30,850 | −2.4 | 1,309 | 100.0 | 1,278 | 100.0 | 20.6 | 20.0 |

(1) Includes child credit, capital gains reform, education incentives, IRA expansion, self-employed health deduction increase, EIC reduction, individual AMT depreciation conformity and relief for farmers, and air travel taxes attributable to personal travel. Does not include increases in the cigarette excise tax.

(2) The income concept used to place tax returns into income categories is adjusted gross income (AGI) plus: [1] tax-exempt interest, [2] employer contributions for health plans and life insurance, [3] employer share of FICA tax, [4] worker's compensation, [5] nontaxable social security benefits, [6] insurance value of Medicare benefits, [7] alternative minimum tax preference items, and [8] excluded income of U.S. citizens living aboard. Categories are measured at 1997 levels.

(3) Federal taxes are equal to individual income tax (including the outlay portion of the EIC), employment tax (attributed to employees), and excise taxes (attributed to consumers). Corporate income tax is not included due to uncertainty concerning the incidence of the tax. Individuals who are dependents of other taxpayers and taxpayers with negative income are excluded from the analysis.

(4) The effective tax rate is equal to Federal taxes described in footnote (3) divided by: income described in footnote (2) plus additional income attributable to the proposal.

Source: Joint Committee on Taxation.

Detail may not add to total due to rounding.

DISTRIBUTIONAL EFFECTS OF THE CONFERENCE AGREEMENT ON THE REVENUE PROVISIONS [1] OF H.R. 2014

[Calendar year 2000]

| Income category [2] | Change in federal taxes [3] | | Federal taxes [3] under present law | | Federal taxes [3] under proposal | | Effective tax rate (percent) [4] | |
|---|---|---|---|---|---|---|---|---|
| | Millions | Percent | Billions | Percent | Billions | Percent | Present law | Proposal |
| Less than $10,000 | −$40 | −0.8 | $5 | 0.4 | $5 | 0.4 | 5.8 | 5.7 |
| 10,000 to 20,000 | −2,143 | −6.7 | 32 | 2.3 | 30 | 2.2 | 8.3 | 7.7 |
| 20,000 to 30,000 | −4,075 | −5.5 | 75 | 5.4 | 71 | 5.3 | 13.6 | 12.8 |
| 30,000 to 40,000 | −5,189 | −4.9 | 105 | 7.7 | 100 | 7.5 | 16.4 | 15.6 |
| 40,000 to 50,000 | −4,152 | −3.8 | 110 | 8.1 | 106 | 7.9 | 17.5 | 16.8 |
| 50,000 to 75,000 | −8,197 | −3.1 | 267 | 19.4 | 258 | 19.3 | 19.7 | 19.1 |
| 75,000 to 100,000 | −4,482 | −2.1 | 218 | 15.9 | 213 | 15.9 | 22.8 | 22.3 |
| 100,000 to 200,000 | −1,096 | −0.4 | 280 | 20.4 | 278 | 20.8 | 25.0 | 24.7 |
| 200,000 and over | −2,439 | −0.9 | 279 | 20.4 | 277 | 20.7 | 30.2 | 28.7 |
| Total, All Taxpayers | −31,812 | −2.3 | 1,371 | 100.0 | 1,339 | 100.0 | 20.6 | 20.0 |

(1) Includes child credit, capital gains reform, education incentives, IRA expansion, self-employed health deduction increase, EIC reduction, individual AMT depreciation conformity and relief for farmers, and air personal travel taxes attributable to personal travel. Does not include increase in the cigarette excise tax.

(2) The income concept used to place tax returns into income categories is adjusted gross income (AGI) plus: [1] tax-exempt interest, [2] employer contributions for health plans and life insurance, [3] employer share of FICA tax, [4] worker's compensation, [5] nontaxable social security benefits, [6] insurance value of Medicare benefits, [7] alternative minimum tax preference items, and [8] excluded income of U.S. citizens living aboard. Categories are measured at 1997 levels.

(3) Federal taxes are equal to individual income tax (including the outlay portion of the EIC), employment tax (attributed to employees), and excise taxes (attributed to consumers). Corporate income tax is not included due to uncertainty concerning the incidence of the tax. Individuals who are dependents of other taxpayers and taxpayers with negative income are excluded from the analysis.

(4) The effective tax rate is equal to Federal taxes described in footnote (3) divided by: income described in footnote (2) plus additional income attributable to the proposal.

Source: Joint Committee on Taxation.

Detail may not add to total due to rounding.

DISTRIBUTIONAL EFFECTS OF THE CONFERENCE AGREEMENT ON THE REVENUE PROVISIONS [1] OF H.R. 2014

[Calendar year 2001]

| Income category [2] | Change in federal taxes [3] | | Federal taxes [3] under present law | | Federal taxes [3] under proposal | | Effective tax rate (percent) [4] | |
|---|---|---|---|---|---|---|---|---|
| | Millions | Percent | Billions | Percent | Billions | Percent | Present law | Proposal |
| Less than $10,000 | −$52 | −1.0 | $5 | 0.4 | $5 | 0.4 | 5.8 | 5.8 |
| 10,000 to 20,000 | −2,395 | −7.4 | 32 | 2.2 | 30 | 2.1 | 8.3 | 7.7 |
| 20,000 to 30,000 | −4,359 | −5.6 | 77 | 5.4 | 73 | 5.2 | 13.5 | 12.8 |
| 30,000 to 40,000 | −5,359 | −4.9 | 109 | 7.6 | 104 | 7.4 | 16.4 | 15.6 |
| 40,000 to 50,000 | −4,324 | −3.8 | 114 | 8.0 | 110 | 7.8 | 17.4 | 16.7 |
| 50,000 to 75,000 | −8,116 | −3.0 | 274 | 19.1 | 266 | 18.9 | 19.6 | 18.9 |
| 75,000 to 100,000 | −4,533 | −1.9 | 235 | 16.4 | 230 | 16.4 | 22.8 | 22.2 |
| 100,000 to 200,000 | −570 | −0.2 | 295 | 20.5 | 294 | 20.9 | 25.0 | 24.7 |
| 200,000 and over | −1,162 | −0.4 | 294 | 20.5 | 293 | 20.8 | 30.3 | 28.7 |
| Total, all taxpayers | −30,870 | −2.1 | 1,437 | 100.0 | 1,406 | 100.0 | 20.6 | 20.0 |

(1) Includes child credit, capital gains reform, education incentives, IRA expansion, self-employed health deduction increase, EIC reduction, individual AMT depreciation conformity and relief for farmers, and air travel taxes attributable to personal travel. Does not include increases in the cigarette excise tax.

(2) The income concept used to place tax returns into income categories is adjusted gross income (AGI) plus: [1] tax-exempt interest, [2] employer contributions for health plans and life insurance, [3] employer share of FICA tax, [4] worker's compensation, [5] nontaxable social security benefits, [6] insurance value of Medicare benefits, [7] alternative minimum tax preference items, and [8] excluded income of U.S. citizens living aboard. Categories are measured at 1997 levels.

(3) Federal taxes are equal to individual income tax (including the outlay portion of the EIC), employment tax (attributed to employees), and excise taxes (attributed to consumers). Corporate income tax is not included due to uncertainty concerning the incidence of the tax. Individuals who are dependents of other taxpayers and taxpayers with negative income are excluded from the analysis.

(4) The effective tax rate is equal to Federal taxes described in footnote (3) divided by: income described in footnote (2) plus additional income attributable to the proposal.

Source: Joint Committee on Taxation.

Detail may not add to total due to rounding.

DISTRIBUTIONAL EFFECTS OF THE CONFERENCE AGREEMENT ON THE REVENUE PROVISIONS[1] OF H.R. 2014

[Calendar year 2002]

| Income category[2] | Change in federal taxes[3] | | Federal taxes[3] under present law | | Federal taxes[3] under proposal | | Effective tax rate (percent)[4] | |
|---|---|---|---|---|---|---|---|---|
| | Millions | Percent | Billions | Percent | Billions | Percent | Present law | Proposal |
| Less than $10,000 | −$70 | −1.3 | $5 | 0.4 | $5 | 0.4 | 5.9 | 5.8 |
| 10,000 to 20,000 | −2,702 | −8.3 | 33 | 2.2 | 30 | 2.0 | 8.3 | 7.6 |
| 20,000 to 30,000 | −4,748 | −6.0 | 80 | 5.3 | 75 | 5.1 | 13.5 | 12.7 |
| 30,000 to 40,000 | −5,646 | −5.0 | 114 | 7.5 | 108 | 7.3 | 16.4 | 15.5 |
| 40,000 to 50,000 | −4,537 | −3.8 | 120 | 7.9 | 115 | 7.8 | 17.3 | 16.7 |
| 50,000 to 75,000 | −8,260 | −2.9 | 284 | 18.9 | 276 | 18.7 | 19.3 | 18.8 |
| 75,000 to 100,000 | −4,696 | −1.9 | 248 | 16.5 | 243 | 16.5 | 22.7 | 22.2 |
| 100,000 to 200,000 | −614 | −0.2 | 312 | 20.8 | 312 | 21.2 | 25.0 | 24.7 |
| 200,000 and over | −2,019 | −0.7 | 310 | 20.6 | 308 | 20.9 | 30.3 | 28.7 |
| Total, all taxpayers | −33,293 | −2.2 | 1,505 | 100.0 | 1,471 | 100.0 | 20.6 | 20.0 |

(1) Includes child credit, capital gains reform, education incentives, IRA expansion, self-employed health deduction increase, EIC reduction, individual AMT depreciation conformity and relief for farmers, and air personal travel taxes attributable to personal travel. Does not include increase in the cigarette excise tax.

(2) The income concept used to place tax returns into income categories is adjusted gross income (AGI) plus: [1] tax-exempt interest, [2] employer contributions for health plans and life insurance, [3] employer share of FICA tax, [4] worker's compensation, [5] nontaxable social security benefits, [6] insurance value of Medicare benefits, [7] alternative minimum tax preference items, and [8] excluded income of U.S. citizens living aboard. Categories are measured at 1997 levels.

(3) Federal taxes are equal to individual income tax (including the outlay portion of the EIC), employment tax (attributed to employees), and excise taxes (attributed to consumers). Corporate income tax is not included due to uncertainty concerning the incidence of the tax. Individuals who are dependents of other taxpayers and taxpayers with negative income are excluded from the analysis.

(4) The effective tax rate is equal to Federal taxes described in footnote (3) divided by: income described in footnote (2) plus additional income attributable to the proposal.

Source: Joint Committee on Taxation.

Detail may not add to total due to rounding.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Will the Senator from Arkansas yield some time?

Mr. BUMPERS. Mr. President, I am delighted to yield to the Senator from Maryland.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland is recognized. He has the floor.

Mr. LOTT. Will the Senator yield for a unanimous-consent request that I think would be of great interest to all Senators?

Mr. SARBANES. I am happy to do that.

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. President, I believe that everybody knows what is in this bill now and Senators have had many opportunities to express their enthusiastic support for the bill. It seems to me that Senators are ready to vote. If we can get this unanimous-consent agreement that I have discussed with the Democratic leader, we would have this vote this afternoon and we would be through with our work and we would not have another vote until Wednesday, September 3.

I ask unanimous-consent that the vote occur on adoption of the pending tax fairness conference report at 6 p.m. this evening, and that no further action occur prior to the vote.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Reserving the right to object, Mr. President. I reserve the right to object not for the purpose of objecting, but for the purpose of making a brief statement with respect to my vote on the last rollcall vote. I think the Senate made a mistake, and I had hoped to be here in time to express my opposition to the motion to waive all points of order.

I think that was a mistake. These are the reasons why it is a mistake. I was not—along with most of the other Members of this body—a conferee on this resolution. I know very little about what's in the bill—only by asking questions of staff and listening to other Members. But I had nothing to do with the conference report that was brought back. Many of the Senators in here are in the same boat.

What goes into that conference report depends a lot on the actions of the House of Representatives. They are a part of the conference report that comes back here for us to vote on. Our only recourse—inasmuch as we cannot amend the conference report, our only recourse, if indeed we want to get a vote on something in that conference report, is to make a point of order if the point of order is available.

The Byrd rule was devised for the purpose of keeping extraneous matter off reconciliation measures because there was very little time on a reconciliation bill for debate, and on a conference report, there is no opportunity to amend it. And so we devised the Byrd rule to keep off these pieces of extemporaneous legislation that were often complex, costly, and needed to be aired and debated by the representatives of the people. That was the purpose of the Byrd rule.

I looked over the Byrd rule violations that were involved here. I saw none that I would question. Some of the Byrd rule violations are good, in my view. But at least I had the opportunity, I had the right to raise a point of order and get a vote. I could not amend the conference report, so a point of order would be my only way to delete from the bill an extemporaneous matter and get a vote on it. And now the Senate has adopted a motion that waived all points of order. It took away your rights, your rights, your rights, and my rights, if we had wanted to make a point of order under the Byrd rule.

It was a bad precedent. What are we going to do the next time—the next time we bring in a reconciliation bill? The first thing, if the majority so wishes, could be to move to waive all points of order? They have the votes. They have the votes. We might be in the majority the next time, or we may not be.

Another thing that happens in these conferences is, the administration, which is a separate branch of Government—and I still hold that there are three equal, coordinate branches of this Government. I don't salute the executive branch. I don't serve under any President. I serve with the President. But the administration goes into these conferences, whether it is a Republican administration or a Democratic administration, and tries to dominate those conferences, tries to get matters included in the conference report right at the last minute so we won't have time to air them under the limited time for debate. But there is still a point of order that a Senator has a right to make, and especially under the Byrd rule, because usually if the administration wants to put in something, it may be an authorizing measure, it is something which ought to be debated. But because they can get it in the reconciliation bill, if they can get by the Byrd rule points of order, then they are home scot-free. I am opposed to that. I think we made a mistake. It is a bad precedent. And I only wish I had had time to express my viewpoint before we voted. Maybe it would not have changed any votes, but still I would have had an opportunity. I thank all Senators for listening. I apologize for imposing on your time.

Mr. LOTT. Mr. President, I renew my request.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, just 4 years ago, in 1993, in order to reduce the deficit, the Congress, by a narrow margin, enacted a budget resolution that curtailed programs and increased taxes—taxes that fell primarily on those at the upper end of the income scale. This combination of spending restraint and revenue increases represents a logical way of dealing with the deficit issue.

This approach has worked in a most impressive way. The flourishing economy has brought unemployment below 5 percent for the first time in a quarter of a century. While unemployment is at a quarter-century low, inflation is at a 31-year low. I don't know what better proof you can offer of a strong economy than the low unemployment rate and low inflation rate we are now experiencing. As a consequence of this flourishing economy, the deficit has declined on a steady basis since fiscal year 1992. It has come straight down in each succeeding fiscal year from $290 billion to $255 billion, to $203 billion, to $164 billion, to $107 billion in the fiscal year that ended last September 30, and it is now expected to be below $50 billion for the current fiscal year come this September 30.

As a percentage of gross domestic product, the deficit has gone from 4.9 percent—a very worrisome figure—in 1992 to well under 1 percent for the current fiscal year, the best performance since 1974. So you have the best unemployment rate in 25 years, the lowest inflation in 31 years, the lowest deficit as a percent of GDP in 23 years. We are doing far better than any of the other major industrial countries. So it is a very impressive economic and deficit-reduction performance indeed that we are now witnessing.

Given this performance, one would think that the wise policy would be to stay the course and finish the job, that we would choose to continue following the path on which we find ourselves. Today we have already enacted budget cuts and spending restraints, legislation which obviously works in the direction of deficit reduction. But now we are passing a tax cut when the objective, or so everyone states, is deficit reduction.

Tax cuts obviously work against deficit reduction. And the tax cuts contained in this legislation are particularly destructive of deficit reduction in that they will grow over time in a way that may well jeopardize the goal of reaching and staying in budget balance altogether.

The capital gains, inheritance, and IRA tax cuts all carry with them the potential for substantial increases in future years. In fact, the tables put out by the Joint Tax Committee itself with respect to the tax cuts contained in this conference report tell this very tale. For the first 5 years covered by this legislation—1998–2002—estate tax cuts will cost $6 billion in revenues. For the next 5 years, from 2003 to 2007, they will cost $28 billion in revenue. That is the upward trendline from the first 5 years to the second 5 years. We don't have the figures for beyond the initial 10-year period. They have not been provided to us. So we are in a sense being asked to make this decision in the dark. But it is reasonable to assume that these estate tax cuts will continue on that upward trajectory.

Capital gains cuts in this conference report are listed as producing $123 billion in revenues over the first 5-year period, 1998 to 2002, and then to cost $21 billion from 2003 to 2007 with no projection beyond that point.

IRA's will cost $1.8 billion in the first 5 years, $18 billion in the next 5 years. And the alternative minimum tax costs $8 billion in the first 5 years and $12 billion in the 5 years thereafter.

So, as everyone can see, we are on an upward trajectory that makes it reasonable to assume that the loss in revenues over the second 10-year period will be well in excess of $0.5 trillion.

This rising trend will, in effect, undercut—if not derail—the deficit reduction effort.

Is it not imprudent—indeed, irresponsible—to commit to such tax cuts before we have actually achieved budget balance and before we have a more accurate and realistic view of whether it can be sustained?

As the Baltimore Sun said in an editorial only yesterday, and I quote:

> The question remains: Will the generous tax cuts come back to haunt the country in the form of widening deficits as the tax cuts take full effect several years down the road?'' The answer, judging from the figures I have just cited, appears to be yes.

Furthermore, let me note that all of this is premised on the economy continuing to function as strongly as it is functioning right now. In effect, with this tax cut, we are giving away our margin to engage in a countercyclical fiscal policy, if we have an economic downturn. What would we do in a downturn when, in fact, you might want to do a tax cut in order to stimulate the economy to help move us out of the recession when, in fact, you have proceeded to use up the margin for taking such policy action with the legislation that is here before us.

Second, these tax provisions before us in this conference report are strikingly inequitable, and result in a disproportionate share of the burdens of deficit reduction being placed on lower income individuals and families. The impact of the reduction in programs contained in the spending bill passed earlier today will be felt by ordinary working people, primarily. The tax reductions contained in this legislation, far from burdening upper income individuals, will primarily benefit those at the top end of the income scale.

In fact, it has been reliably estimated that the top 1 percent of the income scale will receive 30 percent of the tax benefits contained in this conference report. The top 5 percent will receive 44 percent of the benefits. And the top 20 percent, the upper quintile, will receive 77 percent of the tax benefits contained in this conference report. I repeat, the top quintile will receive 77 percent of the benefits.

By contrast, the bottom 60 percent, the lowest three quintiles, will receive less than 7 percent of the benefits. So the top fifth of the income pyramid is going to get 11 times the benefit that the bottom three-fifths of the income pyramid will receive under this proposal.

There is no way that can be regarded as an equitable arrangement. And, in fact, what is happening here is, in order to move toward deficit reduction, additional burdens are being put on working people. In fact, under this conference report, the people at the top end of the scale, instead of making a contribution to deficit reduction, are getting out from some of the burden which they now bear, a burden which has helped to bring the deficit down to the point at which we find ourselves today.

A budget agreement and the tax measure to implement it should undertake equitable deficit reduction apportioning the burdens in a way that it is reasonably spread across the entire society, as was done in 1993 when ordinary working people made their contribution through program reductions, and those at the top end of the income scale made their contribution through tax increases. Here again we have working people bearing their share of the burden of program reduction. But the tax breaks contained in this resolution go very much to those at the upper end of the income scale, leaving working Americans bearing a far larger percentage of the load.

So one must conclude this budget fails the equity test. A budget agreement and the tax program to implement it should also lead to lasting long-term deficit reduction. I don't think this legislation will do that. In fact, as I have already discussed at length, I have very deep concern that in the long term, as the Sun editorial indicated—in posing the basic question, ''Will the generous tax cuts come back to haunt the country in the form of widening deficits as the tax cuts take full effect several years down the road?''—this conference report will do serious damage to our long-term deficit reduction efforts.

These tax cuts will explode in the outyears. They start exploding even within the 10-year period. Let me repeat the figures: The estate tax cuts go from a loss of revenue of $6 billion in the first 5 years to a loss of $28 billion in the next 5 years, and presumably more in the outyears. Capital gains are scored under this conference report to earn revenues—earn revenues—of $123 billion in the first 5 years, and to cost $21 billion in the next 5 years, and presumably more in the outyears.

IRA's are scored here to cost $1.8 billion—less than $2 billion—in the first 5 years, $18 billion in the next 5 years, again with no projection beyond that, although everyone assumes it is on an upward trajectory.

So, Mr. President, this measure before us also fails the long-term deficit reduction test, just as it fails the equity test. In effect, it does not have either of two essential attributes—equitable deficit reduction and lasting long-term deficit reduction—that should inform a tax bill.

For those reasons, I must oppose the measure before us.

I thank the Senator for yielding me time.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I would like to yield 10 minutes, or such time as he may use, to the distinguished Senator from Virginia [Mr. ROBB].

Are we going back and forth?

I apologize for that, and withhold the request.

Mr. ROTH. Mr. President, I yield 5 minutes to the distinguished Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I thank my good friend from Delaware.

I rise today in support of this package. I guess every now and again we get into a situation where we have a big bill in front of us. I know that there is a good friend of mine on the floor now. I call him one of the greatest American slaves to his labor than anybody, and that is Senator DOMENICI from New Mexico on Budget, now with Senator ROTH at the helm on Finance.

A lot of things that we have tried to do in the last 6 or 7 or 10 years we get in this bill.

We had a problem one time in the caucus. I can remember my good friend from Wyoming. It got kind of quiet. Nobody was coming up with any answers. He said, ''Our biggest problem is we are overthinking this thing.'' And we could be doing just that.

But I want to remind America what it is all about. And that is middle America and what it means to young men and women who are starting out in agriculture on their farms. This is income averaging, because we are going to phase out subsidies, folks. We have to allow those who are starting off in the farming business, and those who want to sell a farm, to have capital gains relief—those who inherit farms. We are giving them some way that we can pass our farms and ranches on to the next generation. In other words, we don't have to sell the farm to save the farm, and income averaging, allowing a young man and a young woman on a farm to accumulate cash and save it in the good years so that they can make it through the bad years. That is basically what we want to do. And I call them farm friendly provisions of this budget deal.

In small business, the ability and just a short time to write off 100 percent of your premiums for a tax credit on your health care insurance; you get your home office tax credit back; the alternative minimum tax for small businesses and farming operations. Yes, on that same farm or ranch they have children; and the $500-per-child tax credit, which, in my State, means that $200 million a year stays in that State. And the decision on who spends that money is left to the parents. That decision will be made around a breakfast table rather than around a conference table here in Washington, DC.

So let us take a look at the big picture. Let us take a look at the people who really pull the wagon. They have been looking for relief a long time. It is in this package.

I congratulate my good friend from New York and my good friend from Delaware because they have worked a long, long time. And, yes, you can find something in here that you do not like. But let us not let perfection stand in the way of progress. Let us at least take that one giant step in the right direction and let people control those dollars that they have worked so hard to earn.

Across my State of Montana, we are agriculture and we are small business. So this package is just like a rifle shot; it is pointed right at those people who really are the heart and soul of any community, and, yes, the working men and women of this country. I am going to support it. I hope that all of my colleagues will support it. And then if there is something wrong, this body is not encased in stone. There is plenty of time to put some fixes in that maybe should be put in. But nonetheless, right now let us take that one giant step in the right direction.

Mr. President, I yield the floor and I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. ABRAHAM). Who yields time?

Mr. MOYNIHAN. Mr. President, the Senator from Virginia would like 5 minutes.

The PRESIDING OFFICER. The Senator from Virginia is recognized for up to 5 minutes.

Mr. ROBB. Mr. President, I thank the Chair and I thank the distinguished Senator from New York.

I had planned to make a longer formal statement today, but I will be very brief given the lateness of the hour. Most of the things that I wanted to say have already been said, and in most cases said more eloquently than I suspect I could say them. I really do not enjoy being the burr under the saddle when there is so much euphoria. Many good people have worked long and hard to achieve this compromise which I think is ultimately the only way that the system works in terms of the major proposals that we deal with in this institution.

I applaud the President and the Republican leadership for working together. I applaud the ranking members and the chairs of the Finance Committee and the Budget Committee. I have had the privilege of working with the chairman of the Budget Committee for almost 20 years. In my prior incarnation as a Governor, Senator DOMENICI was always one of the most respected Members of either party from Congress on matters that related to fiscal policy. I know for him this budget agreement represents a major milestone. I know how hard he has worked and I know of his personal commitment to fiscal responsibility and to bringing down the deficit. It is real. I have seen him make tough decisions and without compromising his view of the deal that was finally struck between the President and the leadership in Congress. My guess is that he is at least as enthusiastic, if not more so, about the deficit reduction portion than perhaps some of the timing on the tax cuts.

I would say that there are very few people that I know, Mr. President, who wouldn't like to have their taxes reduced. My problem is with the timing of the tax cuts. We have been making real progress on the deficit in the last few years. We are on the right course. We have, as the Senator from Maryland indicated just a minute ago, some of the most favorable economic statistics and optimistic projections we have ever had. If ever we were going to make real long-term progress, not only in reducing the deficit but in actually beginning to reduce the debt, so that we would not be passing on to our children and grandchildren the kinds of burdens that we continue to accumulate, now is the time to address that challenge. And yet we fail to do so at this particular time.

We are providing tax cuts that will be gratefully received by many. We are providing incentives for many good programs. And again I applaud the President and the leadership of Congress and all of those who have been involved in this effort. But we are missing an opportunity that may not come again to make a substantial effort toward long-term fiscal responsibility. I am even more concerned that some of the proposals that we are going to pass today will have some very unfortunate consequences in the outyears.

I think we will have to look back upon our time on watch and answer to future generations as to why, when we had this opportunity, this window of opportunity in our history, when so many of the economic indicators are so good, we were not willing to make the tough choices.

I voted for the package this morning with a tinge of regret. As I have been committed to deficit reduction for my entire public career, I was disappointed that we failed to include in that particular package some rather modest, but important, restraints on entitlement growth, restraints that made sense for our long-term future. They were among the very first parts of the proposal that we moved away from. Just as we failed to show the political courage to take the kind of steps that we could have taken when respected economists told us what the Consumer Price Index was doing to all of the programs that were related to it and the impact a revision would have on the long term. What we are doing here today is providing the kind of good news in the short term that many of our citizens will respond favorably to, but in the long term all of us are going to have to answer for the consequences of our actions.

With that, Mr. President, I thank the Chair. I applaud those who have worked hard to reach this particular agreement, but I respectfully dissent.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. I yield 3 minutes to the distinguished Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. McCAIN. Mr. President, I congratulate Senator ROTH, Senator DOMENICI, Senator MOYNIHAN, and especially our leader for this landmark agreement.

However, I wish to remark on the conference agreement provision that gives $2.3 billion to Amtrak under the guise of so-called tax relief. Mr. President, this has got to be called the great train robbery. It used to be in the Old West that the outlaws took money from the trains. Now the trains are taking money from the taxpayers—$2.3 billion. The James boys, Jesse and Frank, did not have the imagination that this incredible scheme does. It is not to be believed.

Do you know how they are going to get that $2.3 billion, Mr. President? They are going to get it with a $2.3 billion tax break in taxes they never paid. Amtrak has never paid any taxes. In fact, they have lost $20 billion since they came into being. They have lost $20 billion. Now we are going to take tax relief from the freight trains that used to run prior to Amtrak ever coming into existence.

Mr. President, this is most bizarre. I have only been here 10 years, and I am sure some bizarre and Orwellian things have happened, but this is the most bizarre thing I have ever seen. The only thing, the only thing I think that saves this is that Congress, the leader and others have demanded that reform be part of the package. And our friends on the other side of the aisle, rather than grabbing ahold of this greatest sweetheart deal in history, won't even agree to reforms. Right now, if you are laid off from Amtrak, you stay for 6 years on the payroll, and our friends will not even agree to doing away with that incredible, incredible, unbelievable break.

Now, I guess this provision that unless reform is agreed to this bailout—bailout is not the word. My vocabulary does not encompass the ability to describe what we are doing here with this $2.3 billion to Amtrak—$2.3 billion. Not a single reform. And I thank Senator HUTCHISON of Texas who has worked hard on this issue and many others, but I well tell you, Mr. President, I am going to vote for this bill, but I hope and pray we never see anything like this great train robbery ever again.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. Mr. President, I yield myself 1 minute.

Mr. President, I appreciate the concerns expressed by my distinguished colleague, but I feel that a little history will readily help us understand exactly why we have done what we have done with Amtrak.

We are in complete agreement that Amtrak is in a serious financial crisis.

It may not survive through next year, and according to the GAO, the most important measure Congress can take to help Amtrak through this crisis is to provide a stable capital funding source.

In an effort to provide this funding, I introduced legislation that would have created a dedicated trust fund for Amtrak.

This fund would have been financed by transferring one half-cent-per-gallon of the excise taxes imposed on all motor fuels currently going to the general fund to a new rail fund for Amtrak. This would have provided $2.3 billion in capital funding over the next 3½ years.

By a vote of 77 to 21, the Senate overwhelmingly approved this funding source.

However, during the conference on the tax bill, the House conferees demanded that the secure funding source for Amtrak be contingent on a reform bill being enacted. And the House conferees demanded that the funding must be provided through the Tax Code in place of the reserve fund mechanism contained in the Senate-passed version of the tax bill.

This is why the conference agreement now includes a tax refund for Amtrak. And while this is not my first preference in providing capital funding for Amtrak, it provides the necessary capital to keep Amtrak alive. The conference agreement gives Amtrak the benefit of electing no more than $2.3 billion in net operating losses over 2 years.

Amtrak must use the benefit for capital expenses and provide a portion of this benefit for non-Amtrak States for their transportation related expenditures.

This relief is based on the fact that Amtrak has incurred billions of dollars of losses as a result of inheriting revenue losing passenger rail service since its formation in 1971.

The tax provision contained in the conference report merely provides the same type of tax relief that would have been available to its predecessor railroads had Amtrak not been formed in that year.

Mr. President, the bottom line is that Amtrak desperately needs this relief.

The current path Washington is taking to address our transportation needs is to spend more money on highways and airports. In doing this, we must not overlook the vital importance of passenger rail. Last year Washington spent $20 billion for highways, while capital investment for Amtrak was less than $450 million.

In relative terms, between fiscal year 1980 and fiscal year 1994, transportation outlays for highways increased 73 percent, aviation increased 170 percent, and transportation outlays for rail went down by 62 percent. In terms of growth, between 1982 and 1992 highway spending grew by 5 percent, aviation by 10 percent, while rail decreased by 9 percent.

The time has come to invest in our rail system. The money Amtrak needs to survive is in this tax bill, but it can't be spent until a reform bill is enacted. The bottom line is without a reform bill none of this money will be available to Amtrak. I have done my part, it is now time for all the parties to work together on a reform package. Without reforms, Amtrak won't have the resources it needs to survive.

I just want to make it clear that we are about to have the last clear chance to save the American railroad passenger system. I point out that in the legislation there is a requirement that there must be reform. Make no mistake about that. But the fact is I think it would be a serious mistake that the greatest, sole superpower in the world does not have a passenger system. It is bad from the standpoint of transportation, it is bad from the standpoint of environment, and I hope that we are able to get the job done so that we have this modern, clean transportation.

I yield 4 minutes to the distinguished Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, first, I wish to compliment and congratulate the chairman of the Finance Committee, Senator ROTH, and his counterpart, Senator MOYNIHAN, for the bipartisan way in which they have worked to put this bill together. Also, I wish to compliment the majority leader of the Senate, Senator LOTT, and Speaker of the House, Speaker GINGRICH, because, frankly, they set up the design to make this happen. They said let's get something passed. Let's pass a law. Let's reach out. Let's have Democrat support. Let's not jut pass a Republican package.

I will tell you, I think the bill we passed 2 years ago was a lot better. It had a net tax cut of $245 billion. This bill has a tax cut of $95 billion. The difference is this is going to become law. That is important. The tax bill we passed a couple of years ago had a tax credit of $500 per child. We have it in this bill. And so if a family of median income has three kids, that's $1,500 that they get to spend, not Washington, DC. It is their money. They earned it. They should be able to keep it. That is the whole premise of this package.

We have education relief. I hear some of my colleagues who are opposing this say, well, it does too much for the wealthy. It's really slanted toward the upper income. That is totally false; 82 percent of the package goes to education and the family tax credit. Those are limited to middle income. Families with over $100,000 or over $110,000 do not qualify. So this is targeted towards families, middle-income families.

I think it is a good package. It also has IRA's, and I compliment Chairman ROTH because he has been so steadfast

in pushing for individual retirement accounts for spouses. Now we have millions of nonworking spouses that will be able to invest in an IRA before taxes. I think that is a very positive provision. We have educational IRA's, again because of Chairman ROTH. We have relief from the so-called death tax. We will increase the exemption from $600,000 to $1 million. It takes 10 years. So I encourage people not to pass away if they are in that range. They need to wait a few years. But we also increased the exemption for family businesses, farms and ranches. And I will tell my colleagues, it is extremely popular, very much needed. If you have a family farm, business or ranch and you happen to pass away and you have a taxable estate of $1 million. You are in a taxable rate of 39 percent. And I don't think Government is entitled to take 39 percent of that property. And so again I think this is long overdue.

We have other relief in this bill to encourage savings, to encourage investment. We reduced the capital gains tax 20 percent. Every time we reduced capital gains we have had more savings.

And so again, I think this is a positive bill. It will encourage jobs; it will encourage savings. It will leave families to keep more of their own money in their pocketbooks.

I compliment again the Speaker and I compliment the leader, Senator ROTH, and Senator MOYNIHAN, those who worked so tirelessly to make this happen. The good news is this will become law. We will do what we said we were going to do. We said we were going to give American families tax relief. We said we were going to pass incentives to create more jobs. We have done that in this bill. I urge my colleagues to vote for it. I am glad to see this will become law soon.

I yield the floor.

The PRESIDING OFFICER (Mr. DOMENICI). Who yields time? The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, I have already spoken on the subject today. There are a couple of other things I would like to add.

First of all, there is always a big constituency for tax cuts and I have never known a Member of Congress to lose a vote by voting for a tax cut. We lost a lot of good men and women in 1993 because they voted for a tax increase, which has reduced the deficit from $300 billion to an anticipated $40 billion this year. But they are not here. They honored what they thought was a demand by the American people for a balanced budget, clearly within our grasp. But, you see, there is a big constituency for tax cuts. There is always a big constituency for spending. There is no constituency for a balanced budget. There are those who have looked forward to that, as I have, for 22½ years. When I was deciding whether I wanted to run again, that was one of the major considerations with me.

There are two things that I think would reinstill confidence in the American people in the congressional system and in our democratic system, in our very political system. The two things that would do more than anything to build confidence in America would be to balance the budget, and, No. 2, to change the way we finance campaigns. I concluded that neither were going to happen in the next 18 months and probably wouldn't happen during the next 6 years if I ran and were reelected. That wasn't the only consideration.

But here we are. In 1998—every economist in the country now believes we will probably balance the budget in 1998. So what are we going to do? No. No. We screamed about balanced budgets around here for 22½ years that I have been around here. Now it is within our grasp and how do we treat it? Postpone it for 5 years. Don't do it in 1998, give away some goodies.

And there are some goodies in here that I love. The educational part of it intrigues me. I love it. But here is something the American people have been clamoring for all of these years. We could postpone this for at least a year and provide some comfort to the American people in letting them know that we are really concerned about deficit spending.

Let me ask you this. What in the name of goodness are we always talking about Greenspan raising interest rates for, depending on the inflation rate? Everybody is scared to death the inflation rate is going to go up a couple of tenths of a point, Greenspan will raise interest rates, and this glowing economy, almost unprecedented in the annals of the history of this country, will come to a screeching halt. There will be no balanced budget once this economy goes into decline.

I yield myself 2 additional minutes, Mr. President.

So, what are we doing? This is not a tax cut of the magnitude of 1981. Certainly in the scheme of things it doesn't even begin to match the tax cuts of Jack Kennedy in 1961–1963. But I tell you what it is, it is $135 billion infused into the American economy which could, which just could fuel the economy to the extent of a couple of tenths of a point in inflation. And if that happens, you can bet that the Fed will raise interest rates. And if that happens you can bet that this economy is going to start slowing and you will not see a balanced budget.

The idea, I don't mind saying, Mr. President, I don't know how to say it any stronger—the idea of doing what we are doing today and postponing something that is so near at hand, a balanced budget—postponing it for 5 years is the height of irresponsibility.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Michigan.

Mr. ABRAHAM. Mr. President, I just wanted to take a minute here at the finish of this debate, to compliment a number of people whose commitments have been so vital to the success of this bill. From the very beginning of the 104th Congress until today, the Presiding Officer himself has been in the lead as the chairman of our Budget Committee. Without his leadership, we never would have reached this point. Without the leadership of the chairman of the Finance Committee we would not have reached this point. Without the able work of the ranking member of the Finance Committee we would not have reached this point. Certainly, without the assistance and the leadership of our majority leader, we would not have reached this point.

Today we do something that has not occurred in 16 years, we give the taxpayers of our country a chance to keep more of what they earn. In my State of Michigan this means a great deal. We are not a rich State, in the sense that everybody makes a lot of money. We are a rich State in terms of values and natural resources, but the hard-working people in Michigan have waited an awful long time for the tax cut which we will be delivering. Whether it is the working family who will receive a $500 per child tax credit or the family trying to finance the education of children—who do not want to go bankrupt, but want their kids to go to college—or the small family farmers and small business people who have feared the prospect of having to sell the family business or farm in order to pay death taxes, or the people in our inner cities who are going to benefit from the brownfields provisions that will allow us to clean up environmentally contaminated brownfields and create job opportunities in deserted factory sites, or the people who are hopeful that we can have more dollars for road repair and, because of having shifted the 4.3 cent gas tax to the highway trust fund in this bill we will now have the opportunity to restore more dollars for roads and transportation—all of those people in Michigan will benefit when this action is taken today and the President signs this tax cut into law.

The fact is, today taxes as a percentage of our national income are as high as they have ever been, higher than during the Depression, higher than World War II, higher than during the Vietnam war and other crises. The time has come to restore some balance to the equation, to give the American hard-working families the break they deserve.

So I compliment everybody who has played this role. I think we are moving in the right direction. Many of us would like to do more, and I hope we will have the chance next year, in a later Congress, to do more. But for what we are achieving today, I think great credit is owed to the leadership we have had. So I rise to compliment that leadership and say, as a new Member of this body, I am delighted to be

part of a day today in which we celebrate both the passage of a bill that will bring us to a balanced budget for the first time in a quarter of a century and the passage of a bill that will mean tax relief for hard-working people in Michigan.

Mr. President, I yield the floor and thank the chairman of the Finance Committee for this time.

Mr. ROTH. Mr. President, I yield the remainder of my time to the majority leader.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Mr. President, if I need some additional time, I yield myself time off my leader time, although I hope—I will stay as close to the appointed hour for a vote as possible.

The PRESIDING OFFICER. The Senator has that right.

Mr. LOTT. Mr. President, I thank the chairman of the Finance Committee, Senator ROTH, for yielding me this time and thank him for his great work. I talked about that this morning in relation to the balanced Budget Act, but I think it is even more appropriate that I commend him for his diligence, patience, persistence, leadership, his bipartisan effort. He did a great job on this legislation. I am extremely proud of him and I think he should feel proud. Also Senator MOYNIHAN, for his cooperation and for the way he approaches his legislative responsibilities, we thank him. Without his being willing to support this we would not have had the 80 votes that we had when the bill passed the Senate a month ago. To the Senator in the Chair, the Senator from New Mexico, his imprint is over both these bills; all over them. I thank him for that.

This morning I was satisfied with our action on the balanced budget. I was pleased we got it done. I thought it was an important thing to do and that we should get it done and move forward and reach a balanced budget with honest numbers.

But, with this bill I am enthusiastic, I am really excited about what this legislation does. It is going to help our children with the tax credits and education provisions. I feel good about the education provisions. Some people say, ''Well I don't like that part or the other part.'' Education is about the future of America, and we put some of the President's provisions in there but we put some others in there that will help our children have a better access to community colleges and universities and colleges. It is worthwhile and I am proud of that.

A lot of young people, young business men and women are going to benefit from this. My own son, a young entrepreneur, will benefit from it. And even he was excited, the other night, when I told him what was in this bill. Nothing makes a father prouder than for his own son to say, ''Dad, this will help me to create some more businesses and hire some more people.'' He has 60 young people working for him now. This is what the American dream is all about: Investors, savers, farmers, small business men and women, spouses, and seniors. This is one that really does what we said it was going to do, and we got it done. I am very proud of it.

This is the first significant tax cut for working Americans in 16 years. It is long overdue. Taxes are too high in my opinion. The Tax Code is obviously too complex and complicated. The IRS is too intrusive in our lives and everybody knows it. Congressional Republicans and a lot of Democrats wanted to do more than just talk about tax relief, they wanted to get it done. We wanted to deliver and we wanted to provide this legislation. We picked up considerable bipartisan support and came together in a way that I have not seen the Senate come together in the years that I have been in the Senate, certainly as majority leader. It was a good feeling. We went out on the steps of the Capitol and said we had done this job for the American people. I thought it was constructive and thoughtful, and I was very proud of it.

The President also supports this bill. I am glad that he has supported this tax package and the tax relief that we are giving to the American people. He insisted that some parts of it be dropped. I was very disappointed in that. But we insisted on some things that he didn't want to go along with. As I said repeatedly, we gave ground on both sides, but we found common ground in many instances.

I was particularly concerned, though, about one provision that we had to drop, the so-called Coverdell amendment that would have allowed for an education IRA to be used to pay for education from K through high school, for elementary and secondary. Yes, I like the fact that we are helping community college opportunities for our children, and universities and colleges. But the truth of the matter is, the problem in education in America is not at the higher education level. Our higher education system in America is a good one. It is broad, it is diverse, there is lots of choice. The problem is at the elementary and secondary level.

Why shouldn't a parent, who can now put $500 in the Roth education IRA opportunity, be able to take some of that money to help their children in the fourth grade with some tutoring, so they can learn to read better, or to get help with remedial arithmetic? Why shouldn't a parent be able to do that? I think they should, and I am very sorry that we had to drop this from the package. But the President insisted that this not be allowed because, he said, it would undermine public education. I don't want to do that. I am a product of public education. My mother is a public education schoolteacher. So there were some disappointments along the way. But there is a lot of good in this bill.

Everybody can declare a victory in being for this, because the American people, the American family will benefit from this legislation. Three years ago, congressional Republicans promised the American people a $500-per-child tax credit to help them save for the future or to meet the costs of raising a family in today's world. We kept that promise. And along the way, the Democrats got involved. They put their imprint on it. But the main thing is they are going to get this help. Parents with children will get some help to do things for their own children. I think we should be proud of that.

At the start of this Congress I urged that the Republican conference introduce, as our first bill, a bill to help families with the needs for education and for college costs. S. 1, the first bill that was introduced this year, our highest priority, was in education. The legislation before us today incorporates many of those tax provisions.

If American families are looking for someone to thank, they need to look to further than the sponsors and the leaders of this legislation, Senator ROTH and Senator MOYNIHAN. They really did a great job. They brought us together and they produced the final package that we are voting on here today.

Amazing as it seems, we have been willing to resist some of the criticisms that we should not give tax relief for working Americans. We have done it here. We have kept our promises. I think it is going to be good for the economy. Allow the people, allow our people in this country to make some decisions of how they will help their own children, when it comes to the tax credit, and for education. Let them decide how they will use their money to pay for education.

We are making individual retirement accounts available to almost everybody, especially homemakers. We have that up, now, so they can put in $2,000 like everybody else. Why shouldn't they be able to? But they had not been able to in the past. Now homemakers have this opportunity, just like everybody else, to have this IRA.

We are reducing the unfair tax on capital gains, including homeowners. That alone is going to help fire up the economy even more, foster job creation and expand opportunity for every willing worker.

So, this is an important package. But I want the taxpayers of America to understand this. It is only a downpayment. It is not Utopia. It's not everything we would like to do. It doesn't make the Tax Code a lot less complicated. In fact, it maybe goes the other way. But it's a step in the right direction. It provides help where it is needed and there will be another day for us to have a fairer Tax Code. So, it is the kind of legislation that we need. We have come together to pass it. It will provide extensive tax relief. Tax reform will be something we will do another day.

But we have done a good job here, and I urge my colleagues to rally round the banner of lower taxes and economic growth and join me in sending

America's tax cut to the President for his signature.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. BENNETT). Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LOTT. I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the conference report accompanying H.R. 2014, the Revenue Reconciliation Act of 1997. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 92, nays 8, as follows:

[Rollcall Vote No. 211 Leg.]

YEAS—92

| | | |
|---|---|---|
| Abraham | Faircloth | Lott |
| Akaka | Feinstein | Lugar |
| Allard | Ford | Mack |
| Ashcroft | Frist | McCain |
| Baucus | Gorton | McConnell |
| Bennett | Graham | Mikulski |
| Biden | Gramm | Moseley-Braun |
| Bingaman | Grams | Moynihan |
| Bond | Grassley | Murkowski |
| Boxer | Gregg | Murray |
| Breaux | Hagel | Nickles |
| Brownback | Harkin | Reed |
| Bryan | Hatch | Reid |
| Burns | Helms | Roberts |
| Campbell | Hutchinson | Rockefeller |
| Chafee | Hutchison | Roth |
| Cleland | Inhofe | Santorum |
| Coats | Inouye | Sessions |
| Cochran | Jeffords | Shelby |
| Collins | Johnson | Smith (NH) |
| Conrad | Kempthorne | Smith (OR) |
| Coverdell | Kennedy | Snowe |
| Craig | Kerrey | Specter |
| D'Amato | Kerry | Stevens |
| Daschle | Kohl | Thomas |
| DeWine | Kyl | Thompson |
| Dodd | Landrieu | Thurmond |
| Domenici | Lautenberg | Torricelli |
| Dorgan | Leahy | Warner |
| Durbin | Levin | Wyden |
| Enzi | Lieberman | |

NAYS—8

| | | |
|---|---|---|
| Bumpers | Glenn | Sarbanes |
| Byrd | Hollings | Wellstone |
| Feingold | Robb | |

The conference report was agreed to.

Mr. MOYNIHAN. I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

[Applause.]

## BILL HOAGLAND

Mr. DOMENICI. Mr. President, while we all mention many people who had a lot to do with our success, I believe if you were to ask the White House staff, all the way to the Chief of Staff, and ask all the staff that work for us here on both sides, who was most responsible for getting this job done, they would not say the Senator from New Mexico or the Senator from New Jersey or the distinguished Senator from Delaware. I think they would all say, ''Let's be honest about it. Bill Hoagland, staff director for the Senate Budget Committee''—the man without whom we could not have done this.

I just want the RECORD to reflect that. I am sure they would agree with me—those whom I have mentioned. It is just an obvious fact.

I yield the floor.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Thank you, Mr. President.

I want to thank all the Senators for their cooperation. I know this is kind of like ''school's out'' for a break, and we are taking advantage of the opportunity to say good-bye to each other and enjoy the district and State work period. But I want to thank all the Senators for the tremendous cooperation we have seen here in the last 2 weeks. I do not know that I have seen it any better since I have been in the Senate.

We have already moved 10 appropriations bills. We are going to try to get lined up to start on the 11th one right when we come back. We have passed these two very important bills, the Balanced Budget Act and the Tax Relief Act. It took a lot of cooperation on both sides of the aisle.

I want to thank my counterpart on the Democratic side of the aisle, Senator DASCHLE. He is a pleasure to work with. I think we have a relationship that is important for the Senate; that we be able to talk to each other and work with each other in honesty and frankness. We are going to continue to do that.

Before we leave, we are going to work on doing as much as we can, and I think it is going to be substantial on the Executive Calendar. So I just want to thank Senator DASCHLE and our colleagues on both sides of the aisle for their good work.

If we could keep this pace going, I think the American people would be very pleased, and maybe they would feel very good about our Senate and what we are trying to do.

So thank you very much for your cooperation.

I would be glad to yield to the Democratic leader.

Mr. DASCHLE. Mr. President, I know there are Members who wish to leave. I will be very brief.

Let me just commend the majority leader for his leadership in bringing us to this point. As he has indicated, we have the good fortune to have a good relationship, and we work very closely together. I think, in part, the results are very clear. That relationship has been productive.

Let me also commend the chairmen of the Finance Committee and the Budget Committee, and our ranking members on both the Finance Committee and the Budget Committee, for the extraordinary job they have done. Obviously, you cannot lead if there are not those who are willing to follow. We have followed, and we have worked in good faith on both sides of the aisle.

This is a great day for the Senate and a great day for America. I appreciate very much the opportunity, once more, to express our gratitude to all Senators.

Mr. LOTT. I thank Senator DASCHLE. I do want to also take a brief opportunity, without naming names—and I think their names should be put in the RECORD—to thank a lot of staff people who worked extremely long hours, all night several times over the past few weeks, on both sides of the aisle. You know who we are talking about. We extend our appreciation and thanks to those staff members for their great work. This was a monumental accomplishment. I don't know how you physically got it done. I thank you for that.

Mr. KERRY. Will the Senator yield?

Mr. LOTT. I am glad to yield to the Senator from Massachusetts.

Mr. KERRY. Mr. President, I congratulate the majority leader. He is correct, there has been a significant amount of progress made in the last 2 weeks. I ask the majority leader publicly on the record what he and I have talked about a number of times privately, and that is an issue of enormous concern to some of us. We have written a letter to the majority leader regarding a campaign finance reform debate. While we leave here in good spirits and have cooperated, when we come back, many of us are adamant about having the opportunity to debate campaign finance reform. I ask the majority leader whether he has a sense of when that might take place or if he could give assurance that it will take place.

Mr. LOTT. Mr. President, I expected that I would get this question, and I don't have a time that I could give. I must say that the Governmental Affairs Committee is working right now and looking into potential campaign violations, and what happened in the last election. I think for us to proceed before we even get the completion of that work would be premature. Regarding the last election, we ought to know what laws have been broken and how they were broken. I don't have a date in mind.

I am sure I have been told by several Senators that this issue will come up sometime soon. I understand that. I hope that we will be patient and take our time and maybe even see at some point if we could not do something in this area in a bipartisan way. But I understand what the Senator from Massachusetts has said. He indicated he is going to bring it up at some point. I am sure that will happen. We don't have any time scheduled on that at this point.

When we come back, the focus will be on the three remaining appropriations bills that we have not passed, the conference reports that we must pass, and pending legislation we must pass, including ISTEA, the highway transportation legislation, which expires at the

end of September. We have a lot of very serious work to do of interest to the Nation's Capital, to the people in America, including the Interior appropriations bill, the Labor-HHS appropriations bill, as well as the ISTEA bill. But there is time to look at these matters. I am sure they will be considered appropriately as we move into the fall.

Mr. KERRY. Will the majority leader yield further?

Mr. LOTT. I yield for a further question.

Mr. KERRY. Mr. President, I thank the leader for that answer. I understand where he is heading with respect to that.

If I could ask further, I had wanted at this time, Mr. President, to be able to introduce a bill. I don't know what the intentions of the leader are regarding time to be able to proceed and do that.

Mr. LOTT. We have some unanimous-consent requests and then Senator DOMENICI has an issue, but there will be time for brief remarks.

Mr. THURMOND addressed the Chair.

Mr. LOTT. Mr. President, I yield to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I just want to commend Senator LOTT, the majority leader, for the outstanding leadership he is providing here in the Senate. Many things here have been accomplished. I don't recall, in the 43 years I have been here, fine leadership shown that has gotten so much done in such a short time. I am proud of you. And I want to commend Senator DASCHLE for his fine cooperation and leadership, too.

Mr. LOTT. Thank you very much.

Further, I want to say that we are going to have a period for morning business.

Mr. KERRY. Mr. President, would it be appropriate at this time to ask if I could proceed after the Senator from New Mexico?

Mr. LOTT. Mr. President, I see a number of Senators that wish to speak. I believe Senator DOMENICI has something he needs to do, and I have a couple unanimous consents, and then the Senator may speak. Within a very few minutes, he can get recognized.

Mr. SARBANES. If the Senator will yield, Mr. President.

Mr. LOTT. I yield to the Senator from Maryland.

Mr. SARBANES. First of all, I join with my colleagues who have commended the majority leader for the very efficient way in which the Senate has conducted itself over the past month. We have, obviously, processed a great deal of business.

I just want to say that I was very heartened to hear the majority leader state that it was his intention to address this Executive Calendar before we go out, I gather, with the anticipation of clearing, if not all of it, most of it, as I understand it.

I want to underscore how important that is. If we do it now, these people can move into their positions and be functioning within the week. If we don't do it now, then it obviously has to carry over into September, and you are talking about losing 5, 6, 7 weeks before we get people on the job.

I just want to thank the majority leader for his indication that he is going to address that issue before we depart.

Mr. LOTT. Maybe before we go out tonight.

Mr. LEAHY. Mr. President, if the leader will yield further. As a member of the Appropriations Committee, I commend the distinguished majority leader, the Democratic leader, and the chairman and ranking member of that committee for pushing us this far on the appropriations. It is highly commendable.

I join my friend from Maryland in saying there are many of these nominations on the calendar that need to be cleared as soon as possible—especially the judges that are there. We have new vacancies in our courts. Again, once a person has been confirmed, it still takes weeks before they get out of whatever life they are in—private practice, or whatever—to get out of that and get set up and get their law clerks hired, and on and on, and with all that it means with their families and lives and all. So if some can be cleared now, we know it will be 5 weeks sooner.

Mr. BIDEN. Will the majority leader yield?

Mr. LOTT. I yield to the Senator from Delaware.

Mr. BIDEN. Mr. Leader, on the matter of the legislation we just passed, I want to make one comment. It is obvious that the Senator from New Mexico is recognized as an effective chairman. It is obvious that the Senator from New York [Mr. MOYNIHAN] is viewed as articulate and as one of the brightest people here. It is obvious that everybody knows how effective the ranking member of the Budget Committee is.

I want to make a personal comment that I never thought I would make, or need to make. I think the single-most underestimated person in this body is one of the single-most effective people, and that is my senior colleague, BILL ROTH. He has a style that is so low-key and so quiet that I don't think he gets the credit he deserves. I just want to remind everybody, notwithstanding the fact that everyone sees and hears more about the able leaders I mentioned, this deal would not have been done without BILL ROTH. BILL ROTH. People in my State love him, but they don't even realize that.

I just want everybody to be reminded that this quiet guy from Delaware, who has a very different political view on a lot of things than I do, is one of the single-most effective people we have. On last year's welfare reform bill, and every major thing we have done in the past 18 months, he has been at the helm, or has played a major part.

I want to personally recognize the contribution he makes and state for the record, I think he gets—not intentionally; I think unintentionally—less credit than anybody in this place, and I think he plays the most significant role in all of what we are rightfully celebrating here, which is the passage of the tax bill and the reforms that have taken place in welfare, et cetera. So I want the RECORD to reflect that the man from Delaware, my senior colleague, deserves a heck of a lot of credit.

Mr. LOTT. Mr. President, I thank the Senator from Delaware for making that comment. That is the kind of recognition that we should give more of around here, especially between colleagues of opposite parties.

Let me assure you that, without Senator ROTH, the IRA provision and many other provisions in this bill would not be there. He was dogged and determined and did a great job. I thank the Senator for what he said and the recognition he gave.

## PROVIDING FOR THE CONDITIONAL ADJOURNMENT OF THE TWO HOUSES

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Concurrent Resolution 136, the adjournment resolution, which was received from the House.

I further ask consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 136) was agreed to, as follows:

H. CON. RES. 136

*Resolved by the House of Representatives (the Senate concurring),* That, in consonance with section 132(a) of the Legislative Reorganization Act of 1946, when the House adjourns on the legislative day of Friday, August 1, 1997 or Saturday, August 2, 1997, pursuant to a motion made by the Majority Leader or his designee, it stand adjourned until noon on Wednesday, September 3, 1997, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns at the close of business on Thursday, July 31, 1997, Friday, August 1, 1997, or Saturday, August 2, 1997, pursuant to a motion made by the Majority Leader or his designee in accordance with this concurrent resolution, it stand recessed or adjourned until noon on Tuesday, September 2, 1997, or until such time on that day as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

## WAIVING CERTAIN ENROLLMENT REQUIREMENTS

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now turn to House Joint Resolution 90, regarding hand enrollment, that the joint resolution be passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (H.J. Res. 90) was passed.

## CORRECTING TECHNICAL ERRORS IN THE ENROLLMENT OF H.R. 2014

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of a House concurrent resolution that corrects the enrollment of the tax fairness conference report, that there be no amendments in order, that the concurrent resolution be agreed to, and the motion to reconsider be laid upon the table, all without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Concurrent Resolution (H. Con. Res. 138) was agreed to.

## UNANIMOUS-CONSENT AGREEMENT—H.R. 2160

Mr. LOTT. Mr. President, I ask unanimous consent that at 2:15 p.m. on Tuesday, September 2, the Senate turn to the consideration of H.R. 2160, the House Agriculture Appropriations bill, and one amendment be in order to be offered by Senator HARKIN regarding FDA and there be 20 minutes for debate to be equally divided in the usual form.

I further ask that following the conclusion or yielding back of time, the amendment be laid aside until 9:30 a.m. on Wednesday, September 3, and there be 30 minutes for closing debate to be equally divided, and following that debate, the Senate proceed to a vote on or in relation to the Harkin amendment.

I further ask that immediately following the vote in relation to the Harkin amendment, all after the enacting clause be stricken, the text of the Senate bill be inserted, including the Harkin amendment, if agreed to, and H.R. 2160 be advanced to third reading and agreed to, and the Senate insist on its amendment, request a conference with the House and the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

## FOOD AND DRUG ADMINISTRATION MODERNIZATION AND ACCOUNTABILITY ACT OF 1997

Mr. LOTT. Mr. President, a lot of effort has been put into the Food and Drug Administration reform legislation. The committee reported it out by a, I believe, 14 to 4 vote. It was an overwhelming bipartisan vote. A tremendous effort has been underway to get an agreement on that legislation and to bring it to the floor. I think we should do that and, if I have to, I will begin a cloture proceeding the week we come back because I think this reform is very important. Some parts of it in the law will expire, I believe, at the end of August and will begin to have an impact in September and October.

I ask unanimous consent that the Senate now turn to the consideration of S. 830 regarding FDA reform.

Mr. KERRY. Mr. President, on behalf of the leadership, I do object.

The PRESIDING OFFICER. Objection is heard.

## FDA REFORM

Mr. LOTT. Mr. President, this is the second time this week I have been blocked from trying to move to consideration of critical FDA reform legislation.

This bill, the FDA Modernization and Accountability Act, would ensure that patients and consumers have prompt access to safe and effective products, including prescription drugs, medical devices, and foods.

It would streamline the FDA bureaucracy, which has spun dangerously out of control in recent years. And, it would reauthorize the Prescription Drug User Fee Act.

I am greatly disappointed that this bill is being held hostage by a small number of Senators. This legislation enjoys strong bipartisan support. It passed the Labor Committee by a bipartisan vote of 14 to 4.

Since the bill passed committee on June 18, supporters of FDA reform have tried repeatedly to address the concerns of these four opponents. In fact, supporters of reform have made an additional 30 concessions in the bill since it was reported from committee.

Cosponsors of the bill, Democrat and Republican alike, met with Senator KENNEDY this morning in a last ditch effort to convince him to let the bill go forward. Despite the bill's strong bipartisan support and despite these additional compromises, he refused.

This legislation is too important to be held hostage. As such, I intend to bring the committee-passed FDA reform bill to the floor in September. If necessary, I will file cloture to ensure that this important piece of business for the health of the American people is completed in a timely manner.

## FDA REFORM

Mr. KENNEDY. Mr. President, I regret that we have been unable to reach final agreement so far on FDA reform. In fact, the negotiations this month have made significant progress on almost all of the issues surrounding the bill. Reasonable compromises were reached on 26 separate proposals that had raised serious health and safety concerns and were opposed by the FDA and the administration.

Two issues remained today. It is critical that FDA be able to get all the data they need to ensure that devices that have different technological characteristics from a predecessor device are safe and effective. Provisions of the committee-reported bill might unduly tie the FDA's hands in this important area.

The second issue involves the proposal for sweeping Federal pre-emption of the current authority of States to regulate over-the-counter drugs and cosmetics. In cosmetics, for example, there is virtually no significant Federal regulation at the present time, and States should have the right to act to protect their citizens against dangerous products. Too often, there have been abuses such as lipsticks containing substances that could cause birth defects, skin creams made with known carcinogens, excessive lead in hair dye, and suntan products that produce severe chemical burns.

In my view, acceptable compromises can be reached on both of these issues, and I hope that good faith negotiations will continue.

Unfortunately, in the wake of the current impasses on these two issues, several additional matters that had previously been settled have now been reopened. A fair overall compromise is still possible that adequately protects the public, and I am optimistic that we can achieve it by September.

## GLOBAL CLIMATE CHANGE OBSERVER GROUP

Mr. LOTT. Mr. President, under the provisions of Senate Resolution 98 regarding global climate change, the two leaders have the authority to appoint 12 Senators to serve on the Global Climate Change Observer Group.

Last week, the Senate adopted the Hagel-Byrd resolution regarding global climate change. This resolution encouraged the creation of a bipartisan group of Senators to monitor the status of negotiations on global climate change and to report periodically to the Senate on those negotiations.

As such, the minority leader and I have appointed 12 Senators to serve on this Global Climate Change Observer Group.

Due to their diligent efforts on the global climate issue, I have asked our colleague from Nebraska, CHUCK HAGEL, to serve as chairman, and the distinguished gentleman from West Virginia, ROBERT BYRD, to serve as co-chairman of the group.

The other Members of the observer group will include Senators ABRAHAM, CHAFEE, CRAIG, MURKOWSKI, ROBERTS, BAUCUS, BINGAMAN, KERRY, LEVIN, and LIEBERMAN.

I greatly appreciate our colleagues' willingness to take on this important task and look forward to hearing their reports.

## MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

## VERNAL G. RIFFE, JR.

Mr. DEWINE. Mr. President, I rise to note the passing, today, of an Ohio legend. Early this morning, an Ohio legend died. Here is how Lee Leonard, the dean of the Ohio statehouse press corps, began his report in this morning's Columbus dispatch:

Vernal G. Riffe, Jr., who rose from a Scioto County insurance salesman to become one of the most powerful figures in Ohio's political history, died today at 1:30 a.m. He was 72.''

Vern Riffe served a record-breaking 20 years as Speaker of the Ohio House of Representatives, from 1975 to 1995. From the first day that he was elected Speaker, he was ''The Speaker'' and will always be, Mr. President, ''The Speaker.'' He came to the Ohio House in 1959, spent 16 years learning the skills that would make him the most effective as well as the longest-serving speaker of the Ohio House of Representatives.

He studied the approaches of legislative veterans. He learned a lot. He learned that, in a legislative body, you get a lot further by helping your colleagues move their own legislation forward than you do by grandstanding. As a result, Vern Riffe quickly became the person both Republican and Democratic Governors turned to to make things happen. Vern Riffe was a pragmatic, results-oriented Speaker. He was a partisan, but his greatest victories came from his willingness to work with Republican Ohio Governors to get things done for the people of Ohio.

When Vern Riffe retired from the Speakership, he said this:

If I was 20 years younger, I might be in the mood for forming my own party, called the Moderate Democrats or the Middle of the Road Democrats.

That was Vern Riffe.

These are the lessons of Vern Riffe: Hard work, learn the details, build consensus, and put the interests of Ohio ahead of the interests of your political party.

Vern Riffe grew up in politics. his family was highly political, and from an early age he loved the nuts and bolts of making government work. He used to say, ''I love being Speaker.''

Political scientist Samuel C. Patterson of the Ohio State University summed up Riffe's style:.

Riffe loved working with his members, doing favors for them, helping them get reelected, and assisting them in fulfilling their own ambitions and their own objectives as legislators. As a political leader, he was supportive, and his success depended on his reliability and trust. Riffe's friendliness and his southern Ohio, small town, 'down home' demeanor, endeared him to his supporters and disarmed most of his opponents. He was not stridently partisan, a quality underscored by the fact that the two prominent Republicans, former long-time Governor James A. Rhodes and former house Republican leader Corwin Nixon, are among his closest personal friends.

That is the Vern Riffe that I remember. He used to spend time at the Galleria across the street from the Statehouse, meeting with members of the house and senate in a very informal way, reaching agreement on literally countless issues. When he retired from the house a couple of years ago, this is what one State representative said:

Vern Riffe is the Woody Hayes of Ohio politics. Without his strong leadership, not just the Ohio House, but all of State government will be fundamentally different.

I think that is right. Vern Riffe was a legend, a man who cared about using the power he had to help the people of Ohio.

In conclusion, Vern Riffe never lost sight of the values he learned from his closest political adviser, and, as he told me, his closest friend. That was his dad, Vernal G. Riffe, Sr., who was a former railroader who served as mayor of the town of New Boston. Vern Riffe's dad used to tell him: ''Son, if you're going to be a leader, you've got to lead.'' Mr. President, Vern Riffe always led.

Another Ohio legend, John Mahaney, president of the Ohio Council of Retail Merchants, put it best. He said about Vern Riffe: ''It's like you get in the Hall of Fame by batting .300, 15 out of 20 years. It's longevity and consistency. And (Vern Riffe) passes both tests.''

Mr. President, we will miss him a great deal. In March of this year, he and his wife Thelma began their 50th year of marriage. On behalf of the people of Ohio, I express my condolences to Thelma and to their children—Cathy Skiver, Verna Kay Riffe, Mary Beth Hewitt, and Vernal G. Riffe III, and to their seven grandchildren.

Mr. President, he was a good man.

I yield the floor and thank my colleagues.

## COMPTROLLER GENERAL, GENERAL ACCOUNTING OFFICE

Mr. LOTT. Mr. President, before leaving for the August recess, I want to address the Senate briefly on the matter of the vacancy in the Office of the Comptroller General. The General Accounting Office is a vital organization to the Congress, and the person selected to head the GAO must have the confidence of both the majority and minority. When a vacancy occurs, a commission is established by statute to consider and recommend candidates to the White House. The members of this commission are the President pro tempore of the Senate, the Speaker of the House, the majority and minority leaders in the House and Senate, and the chairman and ranking member of the Senate Governmental Affairs Committee and the House Government Reform and Oversight Committee.

Members should be advised that this group has been organized on a bipartisan, bicameral basis, and we are moving forward. Based on the precedent of alternating between Houses, I will serve as chairman of the commission, with the Speaker of the House serving as vice chair. The Governmental Affairs Committee has jurisdiction over the General Accounting Office, and I have asked Senator THOMPSON and his staff to manage the administrative tasks of the commission. There are a number of candidates to start, but Senator DASCHLE joins me today in putting all Members on notice that we are open to recommendations. If you know of someone interested in being considered for the position, please advise me, the minority leader, Senator THOMPSON, or Senator GLENN at the Governmental Affairs Committee, as soon as possible to ensure that the commission has an opportunity to consider all qualified candidates.

## THE NATIONAL FEDERATION OF THE BLIND OF KENTUCKY

Mr. FORD. Mr. President, I want to take this opportunity to recognize an organization who has represented the visually impaired for 50 years. Members of the National Federation of the Blind of Kentucky will convene on September 5 and 6 to celebrate their work and commitment to improving the lives of visually impaired citizens in the Commonwealth of Kentucky.

The organization's first president, Harold L. Reagan, lived his life not as a blind person, but as an American citizen with a dream. Not only was Reagan blind, but he also lost his arm. In the 1930's this was not easy to overcome. However, this did not stop Reagan. He created an enterprise selling candy, soft drinks and cigarettes over a counter at the Jefferson County Courthouse in Louisville, KY. Reagan was the first visually impaired person to manage this type of business in Kentucky and inspired many others to follow in his footsteps.

Reagan faced adversity with courage and strength. Along with fellow supporters, Reagan helped shape a small organization that became known as the Kentucky Federation of the Blind. This group challenged society to set aside their biases, and opened doors for the visually impaired. Their efforts led to the establishment of a separate agency for the blind in Kentucky which improved services to the blind through additional resources and the elimination of bureaucratic hurdles.

In 1947 Kentucky became the 27th State affiliated with the National Federation of the Blind. In 1979 Betty Niceley filled the shoes of her mentor as President of the Kentucky chapter.

Visually impaired Kentuckians, family, friends and citizens now reap the

benefits of current information, education, and a forceful advocate on State and Federal issues.

Ongoing activities and constant public contact continues to make the National Federation of the Blind of Kentucky a united force. Their efforts have distinguished Kentucky as a leader throughout the country for its research and promotion of technology assisting visually impaired users in obtaining highly sought after computer jobs.

As times change, so do biases and expectations. This year the U.S. Senate saw a staffer join us on the floor to assist with important legislation. While this is not unusual, it was unusual to see this aid assisted by her guide dog. This same aid and guide dog assisted my office a little over a year ago.

I would never say the road that Reagan and other visually impaired Kentuckians have traveled was an easy one to travel, but a necessary journey to benefit generations to come. As friends and family gather today and tomorrow, it will not only be a time to reflect on the past, but toward the future.

I am proud to stand before you and say the world is changing for the better. I know you will join me in congratulating the National Federation of the Blind of Kentucky for 50 years of dedication and service in our quest for a better future.

## TRIBUTE TO JOE R. CHRISTIAN

Mr. FORD. Mr. President, I am pleased to have the honor today of paying tribute to Joe R. Christian who will be retiring on August 19 from the U.S. Capitol Police after 20 years of service to the force.

As the officer on duty with the Capitol Third Division, Joe has given Members and staff of the House Permanent Select Committee on Intelligence a sense of safety and well-being that few others could. His warm smile, good sense of humor and welcoming words have endeared him to his colleagues as well.

Officer Joe Christian has demonstrated that he is a true Kentuckian by his commitment to serving the public good. While he may no longer live in the Commonwealth, Joe has roots back home in Elkton, KY. I know that his friends and family there are proud of his service to the U.S. Capitol Police and his service to the U.S. Navy. Joe joined the Navy at 18 and for over 20 years, he flew all over the world with different squadrons, earning an Honorable Discharge as well as a Good Conduct Medal with a five oak leaf cluster.

I am proud of Joe, too, and extend my best wishes to him as he begins this new phase of his life.

## SUPREME COURT JUSTICE WILLIAM BRENNAN

Mr. FEINGOLD. Mr. President, last week this Nation lost a true American hero with the passing of former Supreme Court Justice William Brennan. The contributions of William Brennan to our democratic way of life are many and will continue, long after his passing, to touch the lives of people all across this Nation in the most important and fundamental ways. Always a staunch and unrelenting defender of individual liberty, William Brennan helped to preserve many important rights that each of us, as Americans, enjoy today. He fought relentlessly to preserve the right to vote, the right to free expression, and the right to be treated as an equal with your fellow citizens. His legacy is one that honors the fundamental notion that in America, the individual truly does matter.

In terms of length of service on the Supreme Court and number of opinions written, William Brennan ranks near the top. However, to reduce his career to these simple numbers is to diminish the scope and importance of William Brennan in shaping this Nation's constitutional law. Many of Brennan's most significant decisions were decided by narrow margins and it is a testament not only to the undeniability of Justice Brennan's often cited Irish charm, but also to the power of his intellect that he could draw diverse Justices together to support important decisions which he drafted. In this regard, he may never be equaled.

Mr. President, there are many reasons to admire and respect William Brennan. He was a man of enormous dignity and compassion. His intellect and reasoning, second to none. Although there are many areas which one could point to in order to highlight the greatness of William Brennan, I will note just two that are significant to me. First, his unrelenting defense of the first amendment right to free expression. Because of William Brennan, the media in this Nation retains the right to criticize the government, to show the American people what goes on in their elected bodies—in other words, to hold us accountable. Absent this right, the credibility of our democracy and our form of government would be, in my opinion, greatly diminished. William Brennan understood that if the first amendment was to mean anything, it must protect that expression which was not popular. In upholding the first amendment in regard to flag desecration, Justice Brennan wrote that;

> If there is a bedrock principle underlying the First Amendment, it is that the Government may not prohibit expression of an idea simply because society finds the idea itself offensive or disagreeable.

In typical Brennan fashion, his opinion was joined by four colleagues of diverse perspectives, Justices Marshall, Blackmun, Kennedy, and Scalia.

In regard to capital punishment, Brennan remained steadfastly opposed. Although he acknowledged that his view was the minority, he maintained until the end that the death penalty was violative of the eighth amendment prohibition on cruel and unusual punishment. In his estimation, a system which treated human beings as nonhuman or objects simply to be toyed with and disregarded was simply not protected by the U.S. Constitution. In the wake of Justice Brennan's death I am reminded that just a few short weeks ago, a Member of the House of Representatives who supports the death penalty, stated on a national news program that someday in America we will execute an innocent person. He argued that while we don't want to do that, and will try to prevent it, it is an inevitable consequence of having capital punishment. This is a staggering, yet candid, statement which I think, makes Justice Brennan's point in a very stark and chilling way. Justice Brennan may well have been on the minority on capital punishment Mr. President, that is not to say however, that his position was incorrect.

Mr. President, there is no question that Justice Brennan was a man that I admired. His opinions were reasoned, intelligent, and always consistent with the notion that in America the rights of the individual, no matter his or her background, upbringing, political ideology, or religious beliefs, mattered. That simple, yet often overlooked notion is the foundation of our democracy and was the cornerstone of Justice Brennan's approach to the law. He was truly the most influential Justice of his time. And while I certainly add my name to the list of those who mourn his passing, I also join those who celebrate the richness of his life and the countless opinions which helped improve the lot of millions of Americans. Ours is a better Nation because of William Brennan.

However, Mr. President, the greatest measure of William Brennan is not one taken from afar—from simply reading his opinions or following the public persona—but from those closest to him, his family, friends, and those who sat with him on the bench. In this regard the comments of his colleagues are telling. Justice Souter called Brennan the most fearlessly principled guardian of the Constitution that has ever lived. Justice Scalia, a jurist often at philosophical odds with Brennan called him the most influential Justice of this century. Justice Kennedy called him a great friend of freedom, not only for those who enjoy freedom, but also those who seek it. Justice Clarence Thomas was quoted recently as saying that there simply isn't a more decent or brilliant human being than William Brennan. From these great jurists of diverse backgrounds and ideological perspective, the message is the same; William Brennan's contribution was undeniable, important, and lasting. It is not surprising Mr. President, that even in saying good-bye, Justice Brennan has once again forged a diverse coalition.

## THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, July 30, 1997, the Federal debt

stood at $5,372,436,799,991.80. (Five trillion, three hundred seventy-two billion, four hundred thirty-six million, seven hundred ninety-nine thousand, nine hundred ninety-one dollars and eighty cents)

One year ago, July 30, 1996, the Federal debt stood at $5,183,983,000,000. (Five trillion, one hundred eighty-three billion, nine hundred eighty-three million)

Five years ago, July 30, 1992, the Federal debt stood at $3,999,118,000,000. (Three trillion, nine hundred ninety-nine billion, one hundred eighteen million)

Ten years ago, July 30, 1987, the Federal debt stood at $2,304,965,000,000. (Two trillion, three hundred four billion, nine hundred sixty-five million)

Fifteen years ago, July 30, 1982, the Federal debt stood at $1,089,616,000,000 (One trillion, eighty-nine billion, six hundred sixteen million) which reflects a debt increase of more than $4 trillion—$4,282,820,799,991.80 (Four trillion, two hundred eighty-two billion, eight hundred twenty million, seven hundred ninety-nine thousand, nine hundred ninety-one dollars and eighty cents) during the past 15 years.

## CONGRATULATIONS TO SGT. GARY HURT ON HIS RETIREMENT

Mr. ASHCROFT. Mr. President, I would like to encourage my colleagues to join me in congratulating Sgt. Gary Hurt as he retires on August 31, 1997, from 28 years of service to the Missouri State Highway Patrol. I add my personal appreciation and best wishes to those of Gary's many friends and colleagues.

There are few careers more noble than those spent in public service. Gary's 18 years in the Governor's Security Division of the Missouri State Highway Patrol have meant a great deal to the people he has served. I add a special word of thanks to Gary for his dedicated service to me during my two terms as Governor of Missouri.

During my tenure as Governor, Gary and I traveled from one end of the State to the other, as well as around the country. Gary always represented the State of Missouri and the Missouri Highway Patrol with dignity, integrity, and professionalism. His commitment to detail put me at ease regardless of travel and event circumstances. I am grateful to Gary and I would like to publicly thank him for the outstanding service he graciously provided my family and me while I served as Governor of Missouri.

I wish Gary and his wife, Carol, much happiness as they begin a new chapter in their lives. May God richly bless them both.

## CONCERN ABOUT RELAXATION OF CROSS-OWNERSHIP RULES

Mr. TORRICELLI. Mr. President, the balanced budget agreement passed by the Senate today was an extraordinary and historical accomplishment. The American people can be proud that Congress took bipartisan action to provide not only the first balanced budget in a generation but also tax relief to working families, health care for uninsured children, financial relief for those seeking a college education and the promise of long-term solvency for Medicare.

In another historic yet less worthy act, the conferees quietly included in the bill a provision to, for the first time, relax the cross-ownership rules that prevent television stations or newspapers from owning a television station within the same city. The FCC has rightly enacted and enforced cross-ownership prohibitions for 50 years to ensure diversity of opinion and views on our local airwaves.

But the provision in the reconciliation bill would allow newspaper owners and broadcasters to bid on licenses within the same market during the 2002 auction of analog broadcast signals in markets with populations greater than 400,000. These signals will be made available as the current analog stations convert to digital transmission.

This action could have a seriously detrimental effect on the diversity of the current mosaic of broadcast entities. Broadcast television remains the most prolific form of local broadcast news and it is critical that this diversity is continued. Indeed, I am deeply concerned by the effect that this provision could have on the FCC's current review of cross-ownership rules.

Congress directed the FCC to review cross-ownership rules in the Telecommunications Act of 1996 and the results of this review are pending. While I believe Congress should revisit the reconciliation relaxation provision on its own merits and free from the rush toward passage of the agreement, it is also critical that the FCC, during its own review of cross-ownership, does not interpret passage of this provision as unobjected Congressional support for repeal or relaxation of cross-ownership rules.

Indeed, it is important to note that this provision is intended to provide cross-ownership only when there is a doubling of broadcast outlets within a particular market and only in markets of populations greater than 400,000. If Congress had wanted to take further action, it would have done so and therefore, the FCC should not.

Our broadcast spectrum is one of our Nation's most valuable assets and one of the most powerful yet limited resource for the dissemination of ideas and free expression. It is critical that Congress work to protect rather than dilute this resource and I will fight for the integrity of our airwaves as Congress continues to address these issues.

## TERRORIST BOMBING IN JERUSALEM

Mrs. FEINSTEIN. Mr. President, I am pleased to join with the distinguished chairman and ranking member of the Foreign Relations Committee, and many others, as an original cosponsor of Senate Concurrent Resolution 46.

Yesterday two suicide terrorist bombers blew themselves up in the Mahane Yehuda open-air marketplace in the center of Jerusalem. These bombs were clearly timed to do the maximum possible damage. They exploded seconds apart at about 1 p.m. local time, at the height of the lunchtime shopping hour. Initial reports indicate that at least 18 people were killed and over 100 were injured.

This was a despicable, bloodthirsty act, which all of us stand and condemn in one voice. It is not yet known exactly who perpetrated the bombing, but it bears great similarity to attacks conducted in the past by the Palestinian extremist groups, Hamas and Islamic Jihad. Whoever bears guilt for this terrible crime is beneath contempt.

We join Prime Minister Netanyahu, President Weizman, and the Israeli people in mourning those who were murdered yesterday, and we offer our deepest condolences to their families. To the wounded, we offer our prayers and hopes for their full recovery.

Sadly, Israelis have become all too familiar with having their daily routines shattered by the sudden bloodshed and carnage of bombings in seemingly ordinary places—on a bus, in a marketplace, in park or a cafe. On top of all the other tragic aspects of these bombings, the way Israelis are forced to live with the knowledge that their world could be blown apart at any instant is a peculiar kind of torture.

President Clinton was exactly right when he said yesterday morning that this bomb was aimed not only at innocent Israeli civilians, but also at all those in the Middle East who genuinely desire peace. And I fear that this bombing, because of its timing and location, could be as damaging to prospects for peace as any that we have seen.

The timing could hardly have been worse. The President's Special Middle East Coordinator, Dennis Ross, was about to travel to Israel to try to breathe new life into the Israeli-Palestinian peace talks, which have been suspended for many months, but which were just beginning to show signs of resuming. In fact, there is good reason to believe that this attack was timed specifically to disrupt Mr. Ross's trip and the impending resumption of the peace talks. Now it may be weeks or months before these talks can resume and be productive. For the extremists, the greatest danger is that the talks could make progress, and they are obviously willing to do anything to prevent it.

This bombing also has ramifications for our work. On August 12, the Middle East Peace Facilitation Act will expire. This act provided the legislative framework for U.S. involvement in the peace process by giving the President the authority to provide assistance to the Palestinian Authority, allow the

PLO to operate an office in Washington, and waive other restrictions on United States-Palestinian contacts, if he certifies that the Palestinian Authority is fulfilling its commitments.

I had hoped that the House and Senate leadership would work with those of us who care deeply about this issue to pass a short-term extension of the Middle East Peace Facilitation Act, so that it does not expire while the Congress is in recess next month. There are many Members, myself included, who believe that the act needs to be reworked to establish a tougher standard of compliance, before it is extended for the long term. But a short-term extension of 60 or 90 days would give us the opportunity to negotiate a meaningful new version of the law, without this important legislation lapsing for a matter of weeks, or even months.

Now, under these circumstances, I do not think it will be possible to pass to a short-term extension in the short time remaining before the August recess. I hope that we will be able to negotiate an appropriate replacement for the current Middle East Peace Facilitation Act shortly after the recess in September.

The location of this bombing also makes it deeply resonant. The Mahane Yehuda marketplace is in the heart of downtown Jerusalem. It is a place where every Israeli has spent time, and many Jerusalemites visit or pass through it daily. It will be difficult to recover from an attack in such a central and symbolic place, and the Israeli Government will find it difficult to engage in peace talks while this memory is fresh.

What will it take to recover from this bombing? Before anything else can take place, it will take action by the Palestinian Authority. First and foremost, the Palestinian Authority should resume security cooperation with the Israeli government to the full extent that they had cooperated before. At one time, in 1995 and part of 1996, Israeli an Palestinian security cooperation reached unprecedented levels. This cooperation reflected a mutual understanding in the shared stake both sides had in preventing acts of terrorism by extremists bent on destroying the peace process.

That shared stake still exists today, but the Palestinian leadership must recognize it and act upon it. Even if the Palestinians are angered by some Israeli actions, that does not change the mutual interest they have in preventing terrorism. Because if anything will stop the peace process from achieving the aspirations of both Palestinians and Israelis, terrorism will.

Second, the Palestinian Authority must reinvigorate its efforts to root out terrorist groups in the areas under its control. This effort has been spotty, at best, and Palestinian officials, including Chairman Arafat, have been rightly criticized for giving less than clear signals that terrorism will not be tolerated under any circumstances. This is not acceptable. An unequivocal red light against terrorism and the operations of terrorist groups—a no-tolerance policy—is the only thing that is acceptable.

Chairman Arafat called Prime Minister Netanyahu shortly after the bombing to condemn the attack, which is the right thing for him to have done. But he must not and cannot stop there. He should condemn publicly in the strongest possible language—in English and Arabic—these bombings and all other acts of terrorism. He should instruct his security forces to dismantle the infrastructure of the terrorist groups, arresting those who are complicit in the conduct of terrorist attacks. He should use his bully pulpit to insist that Palestinian society rejects the elements who believe their aspirations—or martyrdom—can be attained by killing Israelis. If he fails to take these steps, there can be no peace process, and Palestinian aspirations will never be realized.

Finally, when the security situation is more stabilized, both sides must resume peace talks with a view toward meeting only their own needs, but the needs of the other side as well. If these talks are seen in purely zero-sum terms, they will go nowhere. Both sides must make their demands—on Israel's further redeployments in the West Bank, and on final status issues like Jerusalem, settlements, refugees, and sovereignty—with the understanding that if the other side has no stake in the process, there will be no final status agreement that brings about a lasting peace.

Clearly the peace process cannot coexist with terrorism. But despite yesterday's tragic and criminal bombing, the logic of this peace process, and the fundamental need for peace between Israelis and Palestinians has not changed. To give up on this effort would condemn future generations of Israelis to controlling a hostile population of over 2 million, to the detriment of Israel's long-term security and well-being. It would also bury Palestinian dreams of self-determination.

To turn away now from the search for peace would be to reward the extremists for their acts of violence and terrorism. It would be a victory for the barbaric suicide bombers of Mahane Yehuda. It would say to them: ''You were right. You win. There cannot and shall not be peace between Israelis and Palestinians.''

Neither Israelis nor Palestinians—nor the United States—can afford for that to happen.

## ROSA PARKS TRAGEDY

Mr. ABRAHAM. Mr. President, I rise today to express my thanks to a number of organizations and individuals who gave of themselves at a crucial time for the people of Michigan. These people and organizations extended aid to legendary Michigan civil rights leader Rosa Parks and to her organization, the Detroit-based Rosa and Raymond Parks Institute for Self Development. Mrs. Parks and her organization are both Michigan and national treasures. They suffered a great tragedy over the past few days, and I am greatly heartened that so many came forward to help in the aftermath.

Mr. President, each year the Rosa and Raymond Parks Institute sponsors a historical tour tracing the route of the Underground Railroad. On Wednesday, July 30, approximately 30 young men and women on this tour, along with their chaperons, were traveling on Interstate 95, south of Petersburg, VA, when their bus ran off the highway, slid down an embankment and came to a rest on its side in the Nottoway River.

Many of those on board sustained serious injuries, and one chaperon, Adisa Foluke, whom Mrs. Parks has said she considers her grandson, was killed. One of the young women, Tiandra Gunn, remains in a coma. A trip that had begun with so much promise, had in an instant become a nightmare. Mrs. Parks and her associates from the Institute immediately flew to Virginia to be with the youths and their families during this difficult time.

Rarely in such dire circumstances could one find reason to be heartened. However, the immediate and overwhelming response from the Detroit-area business community was to ask how they could help. Chrysler Corp. offered the use of a private jet to return Mrs. Parks and her associates from Richmond, VA, to Detroit. Northwest Airlines provided free air travel to the students stranded so far away from home, and also arranged to transport the body of the deceased home to Michigan.

Examples of compassionate generosity weren't limited solely to Michigan businesses. The American Red Cross paid for the group's lodging for 2 nights and secured ground transportation. The local Shoney's restaurant in Petersburg, VA donated free meals. Individual volunteers, both in Michigan and Virginia, offered their help to the young men and women and their families.

The city of Detroit, and one of its most cherished citizens, experienced great loss this week. However, I believe we have also experienced hope. At a time when little was expected, a great deal was delivered. No one has ever given more of themselves to their community than Rosa Parks. I was proud to see so many who have benefited from her example of selfless leadership respond in kind.

Mr. President, this has been a story of severe tragedy. But it has also been a story of caring, of friends and neighbors galvanized by a desire to help those in need. I extend my condolences to Mrs. Parks and to the rest of Adisa Foluke's family. I'm sure all of our prayers go out to Tiandra Gunn, the rest of the injured, and their families. I also extend my thanks, on behalf of

the state of Michigan, to all those who gave so generously in this time of need. I would include in this category, not only Chrysler Corp., Northwest Airlines, the American Red Cross, and Shoney's, but also Eunice Miles of my Southfield office, and Steve Hessler, my deputy press secretary. Both provided quick response and extra time and effort during a critical time.

I yield the floor.

## NORTH KOREAN FAMINE—A HUMAN TRAGEDY AND A THREAT TO PEACE

Mr. BIDEN. Mr. President, I rise to address a great human tragedy silently unfolding in North Korea and the urgent need for the United States to respond.

The North is experiencing a severe famine and has asked the world for help. Pyongyang has gratefully acknowledged our past assistance. It is in our interest to respond generously to their plight.

### ON THE BRINK OF STARVATION

According to experts from the World Food Program [WFP] who recently returned from extensive travels in North Korea, tens of thousands of people are on the brink of starvation. Hundreds of thousands more are suffering from severe malnutrition, the result of several years of scarcity.

The public food distribution system on which 78 percent of the North's population depends has effectively ceased to function in most parts of the country. In those few rural areas where the public distribution system still is operating, rations have fallen to below 100 grams per day, the equivalent of a small handful or rice or corn for each person.

The evidence of famine is pervasive and undeniable. Children are among the hardest hit, their hair tinged red from malnutrition, their growth stunted, their eyes sunken and listless.

Mr. President, I ask unanimous consent to have printed in the RECORD an article from this week's copy of Newsweek magazine, which includes a photograph of starving North Korean children into the RECORD. I'd like to note for the record that a photograph of a Andrew Cunanan graced the cover, while the poignant photo of four starving North Korean kindergarten students was on page 46.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Newsweek Magazine, July 28, 1997]

### JUST SKIN AND BONES

(By Tom Masland and Jeffrey Bartholet)

It's a slow-motion catastrophe, largely hidden from outsiders. But the latest visitors to North Korea confirm the world's worst fears. A nation of 23 million people is starving, slowly and painfully. ''Mere survival is becoming more and more difficult,'' wrote one man to his mother in Japan. ''There are people dying.'' Travelers describe scenes that once were unthinkable in this police state: beggars in the streets of Pyongyang, masked, armed robbers raiding private homes for food, trees totally stripped of leaves and edible bark. Perhaps most persuasive of all are the first photographs to document the deepening tragedy. The one on this page was taken in an orphanage by an official visitor from a Roman Catholic charity. The blank stares of the spindly infants cry out: time is short.

In response to the crisis, Washington last week doubled its previous donation of food aid to the north. The promised 100,000 tons of grain represents slightly more than half the $45.6 million requested by the World Food Program earlier this month in direct response to the plight of North Korea's children. Executive director Catherine Bertini says the WFP needs enriched baby food for children who are too malnourished to digest the customary relief meal, a handful of ground corn. Bertini reports that the program's staff members in North Korea ''estimate that 50 to 80 percent of the children they have seen in nurseries are underweight and markedly smaller than they should be for their age. They are literally wasting away.''

Playing politics: The emergency food aid will help, but it's not a lasting answer to North Korea's creeping famine. The crisis is bound up with politics: North Koreans are going hungry because their Stalinist economy is collapsing, and the United States, Tokyo and Seoul are using food aid to lure Pyongyang into four-way peace talks and economic reform. Yet North Korean leader Kim Jong II and his cronies are wary of any compromise that could loosen their grip on power. They're prepared to do whatever they feel is necessary to survive—and they're wildly unpredictable.

Managing North Korea's collapse has become a top priority of the Clinton administration. The United States has 37,000 troops based in South Korea to help deter Pyongyang. Yet as North Korea deteriorates, fears mount that its leaders will ''use it before they lose it.'' The endgame is no longer a matter of if, but when. As a Rand Corporation study concluded last year, ''The Korean Peninsula presents a strange paradox. Nobody knows what might happen this year or next, but everyone agrees on how things will look in 10 or 20 years. The North Korean regime is doomed in the long run.''

In part to obtain famine relief, Pyongyang last month finally agreed to attend peace talks in New York aimed at ending the formal state of war that still applies on the peninsula. And last week North Korea promised to lift a ban that has prevented Japanese wives of North Koreans from visiting their homeland for more than three decades. Japan, which has vast stocks of surplus rice, now is considering providing additional food aid. But anyone who thought Pyongyang was turning soft got a rude reminder last week. A squad of North Korean troops briefly crossed the demilitarized zone and provoked the heaviest exchange of fire with South Korean troops in two decades.

Why increase tensions along the most heavily armed border in the world? Pyongyang may believe that by instigating a fire fight along the border it reinforces the message that North Korea is dangerously unstable—springing loose more food aid from Washington, Japan and others. Some analysts also think that there's a power struggle underway within the regime between hardliners in the military and moderates in the civilian bureaucracy. According to this view, every time the moderates move to open relations with the outside world, hard-liners resist. Last September the incursion of a North Korean submarine on the South Korean coast led to a manhunt in which 24 North Koreans and 13 South Koreans were killed—just as Pyongyang was trying to persuade foreign businesses to invest in a new free-trade zone. This time, hard-liners may have wanted to pre-empt the Aug. 5 peace talks.

Once sanguine about a ''soft landing'' in Korea—in which Pyongyang embraces economic reforms and gradual, peaceful reunification—U.S. intelligence analysts now predict a crash. In one scenario, reformers topple Kim in a palace coup and call for help from Seoul or Beijing—creating yet another delicate, hard-to-manage issue between Beijing and Washington. Or perhaps North Korea attempts to seize Seoul, hoping to achieve reunification on its own terms. One former Pentagon analyst warns of a human-wave assault down high ridges and hills where tanks can't operate. This would likely come during the summer, when chemical weapons work most effectively and haze hinders air operations. The argument against such a disaster: China, North Korea's neighbor and longtime socialist ally, can be expected to use all its influence to deter such an attack.

Could famine bring on the collapse of the Pyongyang regime? Conceivably, if North Koreans come to fear starvation more than they do the government. But so far discipline remains strong. U.S. Rep. Tony Hall, who visited the North in April, recalls visiting a maternity clinic where mothers were dying and 6-month-old infants looked like newborns. ''If you asked what they planned to do, people answered, 'The Dear Leader will take care of us. He always does'.'' Hall said. Whoever eventually rules a united Korean peninsula could pay the price for years. ''This is one of the few countries I know where the kids are growing up to be smaller than their parents,'' says Hall. Some call it ''generational stunting.'' ''If [children] are malnourished in these critical years, they can't make it up,'' says one U.N. official. For North Korea's hungry kids, the endgame is now.

### INADEQUATE U.S. RESPONSE

Mr. BIDEN. The United States has a long tradition of responding generously to people in need. By sharing our bounty we have saved millions in Sudan, Ethiopia, Somalia, and Angola.

To date, however, our response to North Korea's famine has been cautious and inadequate.

Over the past 12 months, the United States has provided a total of about $60 million in food aid, including the recent announcement of $27.4 million for 100,000 metric tons of grain.

The world, following our restrained lead, has been slow to meet the genuine emergency needs of the North Korean people. According to the World Food Program, the North began 1997 roughly 2 million tons of grain short of what it would need to avoid famine. But as of July 1, the North had received a total of only about 423,000 tons of food aid, It had managed to purchase or barter another 330,000 tons, leaving a shortfall of more than 1 million tons for the remainder of the calendar year.

The United States has never linked politics with emergency food assistance, and we should not do so now.

We can do more.

And we should do more to avert mass starvation and the incumbent risk of political and military instability of the Korean peninsula.

ROOTS OF FAMINE

Why is the North experiencing a famine? North Korean authorities attribute the shortages to a string of bad weather, including serious flooding in 1995 and 1996. Truth be told, however, the famine is largely the result of wrong-headed, discredited Communist economic policies and the devotion of vast resources to the North Korean armed forces.

But this does not make the North Korean people less deserving of emergency relief. It is not ethically permissible to use starvation as a weapon to force the North Korean dictatorship to undertake essential economic reforms.

Some observers worry that the North might divert our food aid from those who are truly hungry to the military or party elite.

But international relief agencies are able to send their monitors throughout the famine-stricken areas where supplies are being delivered. The World Food Program has even chartered a helicopter to facilitate oversight.

United States private voluntary organizations will soon begin directly supervising the distribution of American assistance, opening another window into life inside the hermit kingdom.

The bottom line? We can have a high degree of confidence that the vast majority of any assistance we provide will reach the intended targets.

WHY NOT STARVE THEM OUT?

Opponents of emergency famine relief for North Korea wonder aloud whether the famine might not be a blessing in disguise; the perfect mechanism to bring about the downfall of one of the most repressive regimes left on the planet. But this cynical view is not only immoral, it displays a total disregard for the potentially explosive results of such a policy of strangulation.

Famines are profoundly restabilizing events. No one can predict with confidence how North Korea might respond. But it is obvious to me that we do not want the North—which may possess one or two nuclear weapons—to experience panic, massive population migrations, and instability.

In testimony earlier this month before the Senate Foreign Relations Committee, Andrew Natsios, director of foreign disaster assistance during the Bush administration and now vice-president of World Vision, a nongovernmental relief organization operating in North Korea, warned that the North's famine could soon reach the irreversible stage.

He added that by the time the world sees CNN broadcasts or emaciated North Korean children too weak to lift themselves off their cots, it will be too late to save them.

FOOD FOR PEACE

Next Tuesday, August 5, representatives of North Korea, South Korea, China, and the United States are scheduled to convene talks aimed at replacing the tattered 1953 Armistice with a peace treaty. If history is any guide, these historic negotiations are likely to be both difficult and protracted.

But while the diplomats talk and the world waits and prays for peace, famished innocent North Koreans move closer to death.

It is time for the United States to lead a comprehensive, humane response to the North's famine.

Not because the North has agreed to peace talks;

Not because the North has frozen its nuclear program and accepted international atomic energy agency monitoring of its Yongbyon nuclear facility; and

Not because the North is cooperating for the first time in 50 years in the search for the remains of America's 8,000 missing servicemen from the Korean war.

We should respond because it is the smart thing to do. It is the noble thing to do. It is an expression of all that is best about America that cannot help but resonate in the hearts of the North Korean people.

## NATO ENLARGEMENT AFTER MADRID

Mr. BIDEN. Mr. President, earlier this month in Madrid the North Atlantic Treaty Organization held a momentous summit meeting, which brought together the heads of state and government of its 16-member countries to discuss the future of the Alliance in the 21st century.

Mr. President, I was privileged to be a member of a bipartisan, bicameral Congressional delegation to the summit meeting. Today, I would like to discuss the results of Madrid and their important implications for American foreign policy.

At Madrid, NATO took the historic step of inviting Poland, the Czech Republic, and Hungary to begin accession talks with the alliance.

The alliance now has several pressing priorities as a followup to the summit.

As its first priority, NATO must complete these accession talks this fall with the three prospective new members. Poland, the Czech Republic, and Hungary have all met the basic alliance membership requirements—democracy, civilian control of the military, the rule of law, no conflicts with neighbors, and the willingness and ability to assume alliance responsibilities.

NATO and the candidates must now assess the military capabilities of each of the three in detail, and must plainly state each country's responsibilities and tasks within the alliance.

Of particular importance is that the issues of cost of enlargment must be forthrightly addressed, both by the three prospective members and by all the current members of the alliance.

The goal is to successfully conclude the talks with Poland, the Czech Republic, and Hungary in time for the Protocol of Accession to be signed at the NATO ministerial meeting in December of this year. The next step is for each of the 16 current NATO members to begin the process of ratification of amending the Washington treaty. Of course, Mr. President, according to our constitution, it is the U.S. Senate that is responsible for advice and consent to treaties, and we anticipate that we will consider the NATO enlargement treaty amendment next spring.

NATO's second major priority after Madrid is developing a strengthened cooperative relationship with those countries that were not invited to be in the first group of new members. At Madrid, NATO re-emphasized an ''Open Door'' policy by which the first group of invited countries will not be the last. Additional candidacies will be considered, beginning with the next NATO summit, to be held here in Washington in April 1999 on the occasion of the 50th anniversary of the founding of the alliance.

In an important gesture, the Madrid summit communique singled out for special mention the positive developments toward democracy and the rule of law in Slovenia and Romania. As many of my colleagues will remember, I was a strong advocate of Slovenia's being included in the first group of new members.

I anticipate that both Slovenia and Romania, and perhaps other countries, will be invited to accession talks with NATO in 1999.

In addition, in a thinly veiled bow to Estonia, Latvia, and Lithuania, the Madrid summit communique reiterated conditions set forth in NATO's 1995 study whereby no European democratic country will be excluded from consideration for membership because of its geographic location.

Translated into real English that means that NATO will not allow Moscow to give the three Baltic states a double whammy.

In other words, the Soviet Union's illegal, forcible incorporation of the Baltic states in 1940—which, I am proud to say, was never recognized by the United States—will not be used as a pretext to veto their consideration for NATO membership.

Mr. President, Ukraine, with an area and population the size of France, is arguably the most strategically important country in East-Central Europe. At Madrid, NATO and Ukraine signed a Charter on a Distinctive Partnership. Ukraine is currently not seeking NATO membership, but under President Kuchma (KOOCH-ma) it has undertaken democratic and free-market reforms in an attempt to move closer to the West. This charter should reinforce this trend.

In order to keep the enlargement momentum going in the countries not yet ready for membership, a new Euro-Atlantic Partnership Council was inaugurated at Madrid. This body will direct an enhanced Partnership for Peace Program—a program involving more than two dozen countries, which, incidentally, has already far exceeded our most optimistic expectations.

Of vital importance to the new security architecture in Europe is NATO's

new relationship with the Russian Federation. Based on the Founding Act between NATO and Russia, that new relationship has begun to take shape.

The permanent joint council, whose consultative functions are outlined in the Founding Act, recently held a preliminary meeting, and more are planned for the autumn.

Rather than being a rival for to the North Atlantic Council, as some critics have asserted, the permanent joint council will be a proving ground where Russia can show its intention to cooperate in a positive spirit with the West.

I hope and expect that it will act in this manner. If, however, Moscow chooses the old path of propaganda and confrontation, then the permanent joint council will atrophy. But, I reemphasize, in no way will the permanent joint council usurp the leading role in NATO played by the North Atlantic Council.

The third and final immediate priority for NATO after the Madrid summit is to finalize the internal adaptation of the alliance. This, Mr. President, is a complex and crucially important issue.

Beginning in 1991, NATO approved a new strategic concept, which moved beyond the cold war focus on collective defense and toward more diverse tasks in a global context. In order to carry out these new tasks, the new strategic concept emphasized the need for NATO to achieve an effective force projection capability.

At the January 1994 Brussels summit, NATO agreed to set up a more flexible set of options for organizing and conducting military operations. This goal was, and is, to be achieved through the mechanism of the combined joint task force, known by its acronym CJTF. Although there has been considerable disagreement between the United States and France as to the theoretical details of how the CJTF is to be controlled, in practice both the IFOR and SFOR operations in Bosnia have been unofficial combined joint task forces under NATO command and control.

Mr. President, I am going into this level of detail because, as I will discuss shortly, the question of post-SFOR Bosnia is inextricably tied in with the ratification of NATO enlargement.

Another aspect of NATO's internal adaptation concerns reforms in the alliance's command structure. At the June 1996 ministerial meeting in Berlin, NATO agreed that a European security and defense identity—known by its initials ESDI—would be created within the framework of the alliance by allowing European officers to wear a Western European Union [WEU] command hat as well as their NATO hat.

As part of the restructuring, NATO has already reduced the number of its strategic commands from three to two, and it is also planning to reduce the number of major subordinate commands. It is at this intersection of ESDI and command structure, Mr. President, that the expressed interests of France and the United States have collided.

The French want to have a European officer take over from an American as Commander of Armed Forces South [AFSOUTH] in Naples. We have rejected this proposal since it would impact upon our Sixth Fleet, even if the Fleet would formally remain under American command. Until now, the dispute remains unresolved, but at Madrid the French agreed to keep talking. In any event, disagreements over internal adaptation will not threaten the enlargement process.

Mr. President, having been privileged to have been at Madrid and having followed the immediate follow-up to the summit, I find my belief reinforced that NATO is on the right track. There remain, however, two challenges, which if not satisfactorily met, could well torpedo ratification of NATO enlargement by this body. They are, first, burdensharing and, second, post-SFOR Bosnia.

The first challenge is an existential one for NATO. The heads of state and government participating in the meeting of the North Atlantic Council in Madrid directed the Council to ''bring to an early conclusion the concrete analysis of the resource implications of the forthcoming enlargement.'' The coming months will see serious discussion and study on the actual costs of enlargement.

The Pentagon Report to the Congress in February 1997 was an excellent starting point. Personally, I find its methodology and conclusions convincing, but they have already been challenged by some of our European NATO partners. On other occasions I have discussed the details of the Pentagon study, so I will not take time today to repeat most of them.

One aspect, though, bears special mention. Because the United States spent considerable sums of money in the 1980's and early 1990's to make our Europe-based forces deployable and sustainable, the Pentagon study calculates our share of the total bill to be less than some Europeans apparently would like. I believe that, in making that criticism, the Europeans are forgetting that in 1991 they signed onto the new NATO strategic concept that emphasizes force projection, to which I referred earlier.

If our European friends disagree, let them offer an alternative methodology in the cost negotiations that were mandated at Madrid.

Even if the absolute cost to the United States of NATO enlargement is well within our capabilities—as it is likely to be—we must insist that the costs are fairly apportioned within the alliance.

I regret that the Madrid summit communique did not specifically call for an equitable sharing of the burden of providing the resources for enlargement.

Moreover, the immediate post-Madrid statements by French President Chirac who said that France would not spend an extra franc for enlargement, and by German Chancellor Kohl, who said that United States cost estimates of enlargement were exaggerated, were not encouraging. They may accurately reflect Chirac's and Kohl's views, or they may merely be opening negotiating positions.

In any event, I must emphasize in the strongest possible terms that the North Atlantic alliance is a partnership, not an American charity enterprise.

While some of our European allies are making significant contributions to alliance multinational military activities, to cost-sharing for stationed U.S. forces, and to foreign assistance—all of which have been listed by the Pentagon as relevant burden-sharing criteria—only Italy, Greece, and Turkey met congressional targets last year on defense spending as a percentage of gross domestic product. And, Mr. President, one might add that the motivations of the last two countries include arming to defend against each other.

I will be very surprised if NATO's definitive enlargement cost study—to be completed in the coming months—does not call for outlays that will force Western European parliaments to increase considerably their appropriations for defense.

At that point, Mr. President, we will reach the alliance's moment of truth. Eleven NATO members are also members of the European Union. I have great sympathy for the European Union's strenuous efforts to achieve an ever closer union. Merely trying to fulfill the criteria for launching a common European currency is proving extremely difficult and causing social tensions in several Western European countries.

But, Mr. President, we in the United States have also been taking painful steps to balance our own budget. The U.S. Federal work force is being reduced by more than a quarter-million, and our appropriations for many worthy social, medical, and educational causes have been drastically pared down on austerity grounds.

So, Mr. President, I don't think it is too much to ask of our European allies what we have been asking of the American people. If one Europe, whole and free is worth ensuring through an enlarged NATO, then our European allies will take up the challenge and make the sacrifices that we have made. If they feel it is not worth the price, then I fear that the future of the entire alliance will be cast in doubt.

A corollary of burdensharing in NATO is the responsibility that the United States takes for the entire free world through its military activities outside of Europe, especially in the Pacific and the Middle East. As we proceed with NATO enlargement, we must be certain not to use a disproportionate share of our defense funds in Europe and thereby weaken our ability to carry out our responsibilties elsewhere.

I am confident that with equitable burdensharing of enlargement, this will not happen.

The second looming challenge, Mr. President, is creating a post-SFOR force for Bosnia. I have long called for applying the CJTF concept, to which I referred earlier, to Bosnia, so that our European allies can provide ground forces there after June 30, 1998, supported by awesome American air, naval, communications, and intelligence assets and an over-the-horizon U.S. Ready Reserve Force in the region.

An amendment to that effect was included in the fiscal year 1998 Defense Authorization Bill passed by the Senate.

If our European allies follow the logic of their repeated calls for a European security and defense identity within NATO, which has been officially recognized by the alliance, then they should seize the opportunity offered by the expiration of SFOR's mandate next June.

By taking up our offer of a CJTF they can consolidate the Dayton peace process and remove a major impediment to the ratification of NATO enlargement by the U. S. Senate.

If, on the other hand, our European allies persist in their in together, out together mantra, oblivious to the Madrid communique's call for—''a true, balanced partnership in which Europe is taking on greater responsibility'' then this body will come to the obvious conclusion that the alliance's official policy upon which enlargement is based no longer obtains. Such a development would have the gravest consequences, not only for enlargement, but for the future of NATO itself.

Mr. President, I sound these warnings in the firm belief that my two doomsday scenarios will not come to pass. For all but the most provincial Europeans and isolationist Americans recognize the need for the United States to remain intimately involved with Europe and will not want to jeopardize that involvement. The history of the 20th century has shown that when the United States absents itself from European affairs, the Europeans—unfortunately—are unable peacefully to resolve their disputes. The result in World War I and World War II was an enormous American sacrifice of blood and treasure.

In order that we should never repeat that isolationist mistake, the United States in 1949 led the founding of NATO, the most successful defensive alliance in history.

For nearly half a century it has kept the peace in Western Europe, allowing its European members to rebuild, overcome their own ethnic and national animosities, and eventually to prosper.

Mr. President, NATO enlargement involves serious policy commitments for the United States, and therefore must be held up to the closest scrutiny. Many of us have been posing relevant questions to the administration for several months, and we have received satisfactory answers. There will, of course, continue to be new issues to be faced as we get deeper into the details of enlargement. But I believe that it serves no useful purpose to repeatedly recycle already answered questions, as if possessed with a need to reinvent the wheel.

For example, some of my colleagues recently asked, once again, what threat NATO enlargement is designed to counter. But both the Clinton administration and NATO long ago answered that question: the threat is instability in Central and Eastern Europe, the crucible for two world wars in this century. NATO enlargement will extend the decades-old zone of stability eastward on the continent.

In case anyone thinks that I am only spouting theoretical political science phrases, let me cite an article in the July 28, 1997 edition of The Washington Times, which quotes the head of the Security Policy Division of the Lithuanian Foreign Ministry. Saying that his country was delighted by NATO's decision in Madrid to invite Poland, the Czech Republic, and Hungary to join, the Lithuanian official explained—''because that extends the zone of stability to our borders.''

By now we surely know that the addition of Poland, the Czech Republic, and Hungary, NATO is not drawing new dividing lines on the continent, as some of my colleagues recently suggested. I think the jubilant crowd that welcomed the President in Bucharest—after the Madrid summit—has laid that myth to rest. The Romanians knew that NATO, by emphasizing its open door policy at Madrid, had once again made clear that its goal is an undivided, peaceful, and free Europe—and an alliance that will welcome Romania as a member in the near future.

Some of my colleagues would like to come up with a finely delineated taxonomy of ethnic quarrels, border disputes, external aggression, and the like, as a precondition for moving ahead with NATO enlargement.

But, of course, such theoretical discussions are rapidly being made superfluous by the lure of NATO membership. Since enlargement became a real possibility Hungary and Romania have formally improved their relationship, as have Hungary and Slovakia, Romania and Ukraine, Slovenia and Italy, Poland and Lithuania, Germany and the Czech Republic, Russia and Ukraine, and other European countries that I am probably forgetting.

Mr. President, these historic reconciliations did not happen by accident. With the notable and sad exception of parts of the former Yugoslavia, the various peoples of Central and Eastern Europe are no longer wallowing in the swamp of ancient, tribal hatreds. Rather, they are attuned to the 21st century and the opportunities that NATO enlargement, above all, can offer.

Some of my colleagues have asked whether NATO membership will force the new Eastern European democracies to spend too much on arms when expenditures for infrastructure critical to economic growth are more pressing. Leaving aside the rather patronizing tone of the question, the answer has been clear for months: Warsaw, Prague, and Budapest each has no trouble defining its national interest. Pending verification in this fall's accession negotiations, the Polish, Czech, and Hungarian procurement plans fall well within prudent limits of the free-market economic reforms that all three have been implementing for several years.

Some of my colleagues have asked whether membership in the European Union might be a better option for these countries to achieve economic stability than NATO membership.

Again, Mr. President, I think we must treat the Central and East Europeans like adults. They know what is vital to them.

Moreover, why—other than to throw up roadblocks in the NATO enlargement process—would one posit an artificial dilemma? It's not an either or choice: many of these countries are viable candidates for both NATO and EU enlargement.

In fact, earlier this month the European Union invited the first three NATO enlargement candidates—Poland, the Czech Republic, and Hungary—plus Slovenia, Estonia, and Cyprus to membership talks for the next round of EU enlargement.

Some of my colleagues have asked, what have we given up in terms of NATO's own freedom of action to deploy forces throughout the expanded area of the alliance in order to obtain Russian acquiescence to the expansion plan?

Well, Mr. President, the answer is a simple, nothing. We have known since NATO made crystal clear last March as part of its famous three no's declaration that the alliance has no reason, intention, or plan in the current and foreseeable security environment permanently to station substantial combat forces of current members on the territory of new members. Obviously, if the security environment changes, so too will NATO's troop stationing policy. In short, we have retained our freedom of action and have given up nothing—zero. I hope that issue has been laid to rest.

While everyone by now admits that Russia's leaders have acquiesced to NATO enlargement, some of my colleagues have asked the unanswerable question: But what of tomorrow's Russian leaders? They wonder whether NATO enlargement will create an incentive for Moscow to withhold its support for further strategic arms reductions.

First of all, no one can categorically disprove a negative. Some Russian leaders are against further strategic arms reductions for a variety of reasons. NATO enlargement may be one of them, although I seriously doubt that

it is one of the more important ones. Ultimately, I believe that the next generation of Russian leaders will see that arms control is in their own national self-interest.

Additionally, we should not forget that through the NATO-Russia Founding Act the Russians will have the opportunity not only to observe NATO first hand, but will also be able to work cooperatively with it. They may not learn to love NATO, but at least they will see that it does not correspond to the aggressive, rapacious Stalinist caricature that they grew up with.

Many of us in this body are justifiably concerned about the cost to the American taxpayer of NATO enlargement, and I have talked myself blue in the face to Europeans making clear my insistence on equitable burdensharing. But I would also remind my colleagues that freedom is not cost free. As a deterrerent to aggression, ethnic conflict, or other kinds of instability, an enlarged NATO is far less expensive than conducting a military operation after hostilities have broken out would be.

Here again the case of Bosnia and Herzegovina is instructive. Had we become directly involved earlier with the lift and strike policy that I advocated as early as 1992, we could have prevented many of the quarter-million deaths and 2 million displaced persons in that tormented country. Moreover, we would not be saddled with the enormous reconstruction costs that the United States and the rest of the world community are now bearing.

So while we persist in our goal of a North Atlantic alliance of truly shared responsibilities, let us not lose sight of the bigger picture that American expenditures on NATO are the best security investment that this country can ever make.

Mr. President, I would summarize my thoughts since Madrid in the following way: NATO enlargement is on the right track. It is a vital force in the integration of the new Europe. Tough negotiating and bargaining lie ahead. Several key questions must be definitively answered in the coming months, above all the actual cost of enlargement and how it will be apportioned. We must work out a satisfactory NATO-led, post-SFOR force for Bosnia. The Committee on Foreign Relations, for example, will hold an extensive series of hearings on these topics. But let us not confuse the debate by repeating already answered questions.

I am convinced that after thorough scrutiny and debate, NATO enlargement will occur on schedule and will contribute to expanding and enhancing stability in Europe, and thereby will strengthen America's security.

I thank the Chair and yield the floor.

## AMBASSADOR RICHARD GARDNER'S OUTSTANDING SERVICE

Mr. KENNEDY. Mr. President, too often we take for granted the exceptional work done by our Ambassadors and members of the foreign service. These individuals perform their duties in countries throughout the world, often in difficult conditions. Their service is a great tribute to their ability and their loyalty to our Nation, and they deserve America's enduring gratitude for the job they do so well in representing our country in other lands.

Earlier this month, one of our most respected ambassadors, Richard Gardner, completed his service as Ambassador to Spain. Dick has previously served as Ambassador to Italy, and is widely recognized as one of the Nation's foremost experts on foreign policy. The knowledge, enthusiasm, and diligence he brought to his post in Madrid significantly strengthened the political, economic, and cultural ties between our Nation and Spain.

I commend Ambassador Gardner for his outstanding service.

Leaders in Spain have recognized the remarkable contributions made by Ambassador Gardner, and I ask unanimous consent that a recent article by Miguel Herrero de Minon be printed in the RECORD.

There being no objection, the Article was ordered to be printed in the RECORD, as follows:

[From ''El Pais'', July 1, 1997]

A FORTUNATE AMBASSADOR

(by Miguel Herrero de Miñión)

The U.S. Ambassador, Professor Gardner, and his wife, Danielle, will soon conclude their mission in our country. The time for farewells is the time for praise and the Gardners have made so many friends here, and even established family ties, that they will receive more than enough accolades. That is why I only want to bear witness to a simple, objective fact: Ambassador Gardner has been a fortunate ambassador and good fortune, an excellent attribute for the one who has it and, particularly in the position he holds, requires two ingredients: specific circumstance and the ability to be able to navigate through to a safe port. The former is mere chance; the latter comes through character, good fortune consists of building a destination between the two.

The circumstance of Gardner's embassy in Spain is no less than the maturation of the U.S.-Spanish relationship, which led naturally to it becoming a truly ''special'' one. I think I was the first, now a number of years ago, to suggest this term, remarking that of all the countries in the European Union with the exception of the United Kingdom, Spain is potentially the one that has the most interests in common with the United States. Accordingly, the sometimes embarrassing security relationship begun over 40 years ago, has been growing while increasing economic, cultural, strategic and political ties have come to light.

Massive student and teacher exchanges contributed to making Spain better known in the U.S. and to doing away with mistrust here; the restoration of democracy in our country opened the way to fuller cooperation, and the Gulf War marked a basic turning point, at least in Spanish public opinion.

But Gardner has had the historic opportunity to contribute decisively during these important recent years, to the acceleration and maturation of this trend, by preparing visits at the highest level in both directions, and collaborating in common, bilateral and multilateral undertakings, bringing the two societies closer together with better knowledge of each other. It was during his tenure that President Clinton launched the Transatlantic Agenda in Madrid and, also in Madrid with the Spaniard Solana at the helm, Atlantic Alliance reform took place, not to mention good political collaboration in other areas of mutual interest. It was also when economic and trade relations were intensified between our two countries, and educational and cultural relations between our two societies.

Gardner has been not only the representative of one Nation and its Government in another, but also an excellent mediator between two societies. He has come to learn and to teach, opened up possibilities and launched institutions, mobilized initiatives that in many cases are more private than public. His professorial talents—the ability to turn Embassy breakfasts into seminars—and his intellectual talents—he has even enriched our bibliography with a masterpiece of economic-diplomatic history—have served his mission well, as has his liberal patriotism in the best tradition of American internationalism—as opposed to unilateralism and isolationism—which has always held that the implementation of manifest destiny involves making oneself known, understood and making friends.

The growing number of Spaniards who believe in the Atlantic community will miss him, because good fortune, doing such a good and timely job, is a rare and beneficent attribute.

## TRIBUTE TO DONALD MARTIN

MR. WARNER. Mr. President, I rise today to pay tribute to a member of my staff who has served me and the Commonwealth of Virginia as a legislative correspondent for the past 2 years.

Don Martin will be leaving my office to attend law school this fall. He will be sorely missed by those who have grown to respect him and his tremendous talent and hard work.

Don is a native of Wytheville, VA, in the southwest portion of our State. He joined my staff in the summer of 1995, just weeks after graduating from Yale University, in New Haven, CT. Don is the first member of his family to attend college and the first to graduate from high school. At Yale, Don was a top student recognized for his contributions as a community leader.

While attending George Wythe High School, Don was honored as class president and recognized as the school's outstanding student. Don Martin was also Virginia's top high school debate champion in both 1990 and 1991.

Don's legislative responsibilities have focused on issues related to the Committee on Environment and Public Works, on which I serve, Committee on Energy and Natural Resources, Committee on Commerce, Science and Transportation, and the Committee on Government Affairs.

Mr. President, in the sincerest sense, Don has a goal to give back to his family and community the same kind of love and commitment they gave him. His goal is to get back home and make a positive difference in his community of Wytheville. I respect him and wish him all the best.

## THE TRAGIC BOMBING AT MAHANE YEHUDA MARKET

Mrs. BOXER. Mr. President, yesterday in Jerusalem, the Mahane Yehuda market was ripped apart by two suicide bombs that detonated only seconds apart. At least 15 people are dead and another 170 are estimated to be injured as a result of this cowardly act. I rise today to strongly condemn the bombings, and to extend my deepest sympathies to the people of Israel.

The images we have seen on the news have been heartbreaking. The bombs, packed with nails and screws, turned a busy produce market into a horrifying scene of bloodshed and destruction. There is simply no justification for this indiscriminate killing of innocent people.

It has been reported that Issadin Kassam, a military wing of Hamas, has claimed responsibility for the bombing. This would not be the first time Hamas has terrorized the people of Israel and shown itself to be the strongest enemy of peace in the region.

Mr. President, this small majority of extremists cannot be allowed to block the peace that so many people desperately desire. Everyone affiliated with the peace process must now redouble their efforts to stabilize this region that has suffered so long.

Unfortunately, the peace process cannot move forward unless the Palestinian Authority keeps its promise to cooperate fully with Israeli efforts to combat terrorism. I am deeply saddened to report that to date, Palestinian efforts have been inadequate. Only by working together in good faith can terrorism be vanquished from the Middle East.

Once again, I express my sincerest condolences to the Israeli people for their latest sacrifice in the quest for peace.

## TRIBUTE TO DR. RICHARD LESHER, U.S. CHAMBER OF COMMERCE

Mr. BURNS. I would like to pay tribute to a man who has given the American business community and millions of hard-working Americans over 2 decades of dedicated service. Dr. Richard Lesher, president of the U.S. Chamber of Commerce, will be retiring in mid-August of this year. Dr. Lesher has successfully steered the world's largest business federation during this era of global competition.

After nearly a quarter of a century with Dr. Lesher at the helm, the chamber's membership has grown to over 215,000 business members, 3,000 State and local chambers of commerce and over 1,200 trade and professional associations. In addition to the national membership, the U.S. chamber works closely with international members from over 60 countries.

Dr. Lesher has worked tirelessly to improve the chamber and to continually champion the goals of the free enterprise system. In order to give his members a stronger voice in Congress, Dr. Lesher has established the Grassroots Action Information Network, or GAIN. He has overseen the creation of the National Chamber Litigation Center in 1977, the only public policy law firm that represents American business interests before regulatory agencies and the courts.

Dr. Lesher has been a constant source of inspiration and dedication in Washington, across the Nation, and throughout the world. His innovative ideas, superb leadership and knowledge of issues have made the U.S. Chamber of Commerce the Nation's leading business advocacy group. Dr. Lesher, thanks for your unfailing commitment to Americans and American business throughout your tenure. I wish you the very best in your retirement.

## TRIBUTE TO PETER JENNISON

Mr. LEAHY. Mr. President, I rise today to honor a very special Vermonter. Peter Jennison has devoted much of his life to documenting our wonderful State.

Among his many accomplishments, Peter has authored ''Vermont: An Explorer's Guide,'' ''Roadside History of Vermont,'' numerous Vermont magazine articles and reviews, and also ''Vermont on $500 A Day (More Or Less)''—and for those of you who are lucky enough to have visited Vermont you understand the tongue-in-cheek title of the last book.

His skill and talent for writing and history earned him the Vermont Book Publishers Association Lifetime Achievement Award in 1996. As someone who has enjoyed many of his books and magazine articles, I know that this award is well deserved.

Peter is a longtime special friend of mine as is his wife Jane and I wanted the Senate to know about them.

The Rutland Herald recently ran an excellent piece on Peter Jennison. I ask unanimous consent that the article appear immediately following my statement.

[From the Rutland Daily Herald, July 10, 1997]

### A ''BORN AGAIN VERMONTER'' REFLECTS ON A LIFE SPENT AMONG BOOKS

(By Melissa MacKenzie)

At 75 nothing shocks Peter S. Jennison except the prices of books and hotels.

''I can remember when a suite at the Plaza cost $10 a day,'' he said with a chuckle on the morning of his big birthday, July 2 was celebrated quietly, followed by a family gathering at the weekend. Jane Jennison, his wife of 51 years, was cheerful but bedridden with emphysema, knee surgery and two hip replacements. Otherwise life appeared to be going tolerably well in the 1840 brick cottage on the hill above the Taftsville General Store.

Jennison, a ''born again'' Vermonter, who grew up in Swanton and then lived many years in New York only to return home again, is probably best known to the average reader as one of the authors of ''Vermont: An Explorer's Guide'' and the popular ''Roadside History of Vermont.''

Others may recognize him as the dry, accurate and often humorous reviewer of restaurants and inns for Vermont Magazine. Or you may have seen his books in libraries, including two novels set in Vermont, ''The Governor,'' written in 1964, and ''The Mimosa Smokers,'' and a semi-serious guidebook called ''Vermont on $500 A Day (More or Less).'' Two of his other books, ''History of Woodstock, 1890–1983,'' and ''Frederick Billings,'' written with Jane Curtis and Frank Lieberman, reflect his historian side and his lifelong interest in Vermont history.

An affable observant man known for his quiet wit, Jennison and his wife, Jane, founded Countryman Press, (now a part of the giant W.W. Norton Publishing Company), in Woodstock in 1973. Or re-founded, you might say. The Jennisons revived the imprint, dormant since the 1930s, which had in the past published such greats as Stephen Vincent Benet and Edgar Lee Masters, and launched their own version, including a new, colophon designed by Vermont artist Sabra Field.

Success came quickly, although it was hard work. Peter and Jane worked from their kitchen table to produce Countryman's first book, a guidebook called ''Wonderful Woodstock.'' and only three years later published its first bestseller, ''Backyard Livestock,'' by Steven Thomas, a book that is still selling well today. By this time several veteran editors and marketing people had joined the little enterprise, among them, the late Keith Jennison, Peter's brother, author of the humorous ''Yup * * * Nope and Other Vermont Dialogues'', and three men who would eventually run the company, Louis Kannenstine, Christopher Lloyd and Carl Taylor.

The idea was to pay careful attention to the selection of books, be willing to take a chance on a writer; and to take pride in the way their books were designed. Said Jennison at the time, ''Working this way is * * * a much more personal kind of publishing that is possible elsewhere in the conglomerate scene.'' It was a philosophy which saw little Countryman become a David among the Goliaths.

''Countryman was like a woodstove. You had to keep adding logs. Bit by bit we grew beyond our expectations. We didn't have a master plan, it just happened. The more books, the more momentum,'' Jennison said.

The company operated from the Jennisons' home for the first four years. Editing, billing and shipping continued to get done at the kitchen table. Books were ferried to bookstores in the back of a Toyota pickup truck. Next, Countryman moved down the hill near the Taftsville General Store, where it stayed until 1981 when it relocated to Woodstock and constructed its own building on Route 4. Countryman Press operated there until 1994. After the sale to W.W. Norton, the staff relocated to Mt. Tom. The building is presently for sale for $495,000.

Selling to a big New York City publisher was ''an emotional wrench, like selling the family farm, but I realized we had, so to speak, survived the childhood and the adolescence of the company, and now we had grown up and got married,'' said Jennison philosophically.

''For a small publisher it was getting more and more complicated and expensive to do business. The big wholesalers and the chains are now dictating the rules of the game,'' he added.

''Publishing has gotten to be part of the entertainment industry. More people are buying more books, but because of the star system that dominates the industry, a lot of new writers are being deprived of an audience. There are still a lot of smaller presses, but they don't have access to the major markets,'' Jennison said.

Another factor is the reliance of the big players on computers and the industry's fixation on the bottom line.

''Unfortunately the buyers at Barnes and Noble and at Ingram (the largest book distribution company in the U.S.) are ruled by their computer records; how well an author sold before, what type of book sold before, etc. I call it the Bill Gates-is-God mentality,'' he said.

Jennison, however, remains hopeful, ''I am optimistic enough to think there will always be a large number of people who would rather curl up with a book than a computer game. The format of the book will be with us for a long time. It'll go on,'' he said.

In 1996 the Vermont Book Publishers Association awarded Jennison a Lifetime Achievement Award for his contributions to publishing.

A sixth-generation Vermonter, born on a dairy farm in Swanton, north of St. Albans, Jennison attended a one room school until his parents packed him off to Philips Academy, Andover. Next came Middlebury College, interrupted in his junior year by World War II. Jennison served three years with the Office of Strategic Services, the forerunner of the CIA, as a code and ciphers specialist, decoding messages from U.S. agents behind the lines in Germany, France and Norway, Returning to Middlebury, he graduated with a degree in American literature, married Jane, and began what was to become a lifetime spent with books.

Jennison worked first for ''Publishers Weekly'' as a reviews editor and feature writer, and then went on to become Assistant Director of the American Book Publishers Council. In the 1960s, he served on the National Book Committee, a non-profit citizens group promoting books and libraries, similar to the Vermont Center for the Book, but on a national scale. Under the auspices of the Ford Foundation he also worked with fledgling publishing companies in Africa, the Middle East and Asia, as well as serving on the panel for the National Book Awards.

''The Natinal Book Awards weren't as high profile in the sixties. We got a lot of local publicity, though, outside of New York. Now, it's more like the Academy Awards,'' said Jennison.

The Jennisons returned to Vermont in 1971. I'd had enough of New York and I was tired of being held hostage by the New Haven Railroad,'' recalled Jennison, referring to his years as a commuter from suburban Westport, Conn.

Christina Tree, co-author of ''Vermont: An Explorer's Guide,'' remembers the story a little differently. ''The way I heard it, Peter came home one night after a hard day in the city, wound up like a clock, and accidentally walked straight off the patio into the family swimming pool, seersucker suit, briefcase and all. He got out, sputtering, and yelled, ''That does it. Jane, we're going back to Vermont.''

Although he is now officially retired, Jennison continues to write for ''Vermont Magazine'' and will work again with Tree on the next edition of ''Vermont: An Explorer's Guide.''

Countryman Press's ''The Explorer's Guide series'' started in 1979. The first book was about Massachusetts, the home state of Tree, a young travel writer at the Boston Globe. Said Tree from her home in Cambridge, ''Peter hired me to write the series. I wrote one on Massachusetts and one on Maine. But the year I was to begin the one on Vermont, I had some family difficulties, and Peter so-authored to help me out.''

The partnership was such a success the two have continued co-writing the book ever since.

''We divided up the state,'' said Jennison. ''Now, when it's time for a new edition, we switch sections and re-visit old places and add new ones.''

The guidebook is published every two years and has garnered much praise for its accuracy and attention to historical detail. The most recent edition came out in May, which means that come the summer of 1998, Jennison and Tree will again switch their sections and start trekking for the 1999 edition. Working off the previous edition on their computers, the pair will meticulously re-check each entry, changing phone numbers and prices where necessary adding names or dropping them.

Said Christina Tree, ''The depth of Peter's knowledge of Vermont is huge. He's seen tremendous changes in the state, and he's got an interesting perspective, returning to Vermont at the time he did, after being away for so long. He personifies a certain kind of aristocratic Vermonter, who's very sophisticated and also very active and involved. He's low-key and witty and generous. And of course he's a fabulous writer. Somebody ought to do an oral biography of him.''

## CONFERENCE AGREEMENTS ON H.R. 2015 AND H.R. 2014, THE BALANCED BUDGET AND TAXPAYER RELIEF ACTS

Mr. MCCAIN. Mr. President, I congratulate our leader, Senator DOMENICI, Senator ROTH, our colleagues in the House, our colleagues in the other party, and all those who worked so diligently to hammer out the details of these agreements. I admit that I was somewhat skeptical that the Congress and the Clinton administration could come to an agreement on these two very important bills. While I have some concerns about certain aspects of these measures, I am pleased to be able to support the legislation.

These two bills will put our Nation back on the road to Federal responsibility. The Balanced Budget Act will reduce Federal spending by $270 billion over the next 5 years, eliminating our annual deficits and resulting in a balanced budget by the year 2002. At the same time, we are providing $96 billion in much-needed tax relief over the next 5 years.

Mr. President, our Founding Fathers recognized the basic principle that the Federal Government must not spend beyond its means. Thomas Jefferson said, ''We should consider ourselves unauthorized to saddle posterity with our debts, and morally bound to pay them ourselves.'' Unfortunately, we have strayed far from Mr. Jefferson's wise advice.

Today, our Nation is burdened with a national debt in excess of $5.3 trillion—or about $20,000 for every man, woman, and child in America. Our debt is still growing by about $4,500 per second—about the same amount it would cost to send three people to a community college.

Although Congress has talked endlessly about balancing the budget, the budget has not been balanced since 1969. We—the Congress and the President—have ignored our responsibility to put our fiscal house in order, choosing instead to leave future generations of Americans with an overwhelming legacy of debt.

Because Federal spending has been out of control, the American people have been saddled with an unconscionable tax burden. In 1960, Americans paid approximately one dollar in taxes for every $50 they earned. Today, one out of every three dollars goes to the tax man. These confiscatory tax policies are blatantly unfair to those who work hard to provide for their families.

The Balanced Budget Act reduces Medicare and Medicaid spending without reducing benefits, provides $24 billion for children's health initiatives, and mandates savings in other Federal programs. It also provides for effective enforcement of the discretionary spending limitations necessary to balance the budget by 2002.

The Taxpayer Relief Act will ease the unconscionable burden on American taxpayers by reducing estate and capital gains taxes, providing a $500 tax credit for children, and providing more flexibility in Individual Retirement Accounts. Small businesses will gain tax relief by restoring the deductibility of home office expenses and self-employed health insurance costs. These and other provisions will allow Americans to keep more of the their hard-earned dollars, rather than turning them over to pay for a bloated Federal bureaucracy.

The American people have waited a long time for deficit reduction and tax relief. With this legislation, we are showing the American people that we take our duties seriously, and I am pleased to support these bills.

Mr. President, there are several matters contained in these bills that I would like to discuss at greater length, some good and some not so good.

### AMTRAK TAX CREDIT

Mr. President, I wish to remark on the conference agreement provision giving $4.3 billion to Amtrak under the guise of so-called ''tax relief.'' Given that Amtrak is exempt from most Federal tax burdens, this scheme represents the greatest train robbery since the James Brothers retired.

How we can give a corporate tax refund to a quasi-governmental corporation that has NEVER paid Federal corporate income taxes defies imagination. It's too bad the American taxpayers aren't so favorably treated. I think every taxpayer would like the chance to receive a tax refund they aren't legally owed. Of all the charades I have seen over the years, this Amtrak ''special'' tax provision takes the cake.

I want the public to be aware, this bill contains $2.3 billion for Amtrak to be doled out over two years not subject to appropriation or congressional oversight. This is the same outfit that has drained $20 billion from the Federal Treasury to serve a small percentage of commuters in the northeast.

This windfall would be accomplished through a far fetched tax scheme that

will give Amtrak tax credits for the operating losses incurred by freight railroads. The provision instructs the Internal Revenue Service to sift back through the tax returns of the freight railroads and determine the losses they incurred from their passenger service from 1917 to 1971, before Amtrak ever existed. Those losses, which no one can quantify today, will then be provided to Amtrak in the form of $2.3 billion in tax credits.

Mr. President, give me a break. Are we supposed to be fooled by this? If we're going to permit a giveaway to Amtrak let's just be straight with the American people. Let's not insult them with this bogus charade. It's a mockery of our tax policy and an insult to the public.

Why didn't the conferees simply give $2.3 billion to Amtrak, without all the machinations? Because proponents of this provision know that if funding were subject to appropriations, which is the normal process, Congress wouldn't fund it because its simply not our top transportation priority. So, we're supposed to buy this ludicrous notion that Amtrak is owed a tax refund on taxes they never paid. To think that anyone is supposed to buy such a fairy tale strains the imagination, and adds to the cynicism about how Congress operates.

Let me take a moment to recap how we got to this novel provision. As my colleagues remember, the Senate-passed tax reconciliation bill included an Amtrak funding provision touted by its sponsors as a half penny for Amtrak. But the truth is that new money—some $2.3 billion in new Federal subsidies—came at the expense of the tax cut promised to the American people as part of the balanced budget agreement negotiated by the Administration and the Congress.

During the Senate floor debate, I strongly objected to that provision. I also urged the conferees to reconsider the fiscal ramifications of funneling such money to a system already losing more than $700 million annually and serving less than 1 percent of the traveling public. Unfortunately, the merits for sound Federal policies too often lose out to political will. That was the case during the original Senate debate and it is still the case today.

Again, the conference agreement which we are considering today provides for a new and even more generous funding proposal for Amtrak—one not previously considered by either the House or Senate. This proposal effectively provides more than $1 billion annually to Amtrak during the next two years rather than the approximately $700 million annual subsidy over three years. This new pot of gold for the bottomless pit known as Amtrak will not, let me repeat, will not, be subject to appropriations nor to Congressional oversight. Under the new proposal, the U.S. Treasury will be in charge.

One has to question just how far Congress is willing to go in its quest to find funny-money for Amtrak. Today, Congress is telling the American public that they should believe there is some sort of justification for deeming Amtrak to have had operating losses prior to its existence. The American public is to believe Amtrak is entitled to a tax credit for losses dating all the way back to 1917, even though it wasn't created until 1971.

What precedent does that set for our Federal tax policy? What type of signal does this send to private corporations and citizens on how the whimsy of Congress can retroactively recreate their tax histories? This proposed scheme is indefensible to the American public and sets an ill-advised precedent.

Mr. President, while I adamantly object to the tax credit scheme for Amtrak, I do what to note that at least one shred of responsibility remains in the bill with respect to Amtrak. It's small consolidation but the bill does link the disbursement of this unprecedented gift to the enactment of comprehensive Amtrak reform legislation.

I would like to recognize Senator HUTCHISON for her leadership and tireless work to try to move true Amtrak reform legislation through this Congress. While reform legislation was not included in this bill, I am confident Senator HUTCHISON will continue her endeavors to bring legislation passed by the Commerce Committee to the full Senate. And finally, I would like to thank the Majority Leader for the many hours he devoted to resolving this and all the other provisions in this tax legislation.

Before final passage of this bill, I look forward to entering into a colloquy with the Majority Leader and the Chairman of the Finance Committee regarding the linkage of Amtrak's access to this new windfall to the passage of a comprehensive reform bill. We will, in that colloquy, clarify that when we say a reform bill, that does not mean a couple of lines tucked into an appropriations bill or a rider making some cosmetic change to Amtrak. It means comprehensive, substantive meaningful, reform to ensure that Amtrak operates more efficiently and to set up a process that will protect taxpayers if Amtrak does not meet its financial goals.

I say to my colleagues and to the public, watch very carefully. Meaning no disrespect to any member of this body, the same minds that devise schemes like ''tax credits'' for Amtrak will employ their creative powers to hatch clever ways of ''reforming'' Amtrak in order to release the money without Congress ever suspecting that's what we did.

I hope that's not the next chapter in this charade. But, sadly, it wouldn't surprise me and I respectfully urge my colleagues—stay tuned.

COMMUNICATIONS AND SPECTRUM ISSUES

Mr. President, as one of the principal architects of Title III of the Balanced Budget Act, dealing with communications and spectrum allocations, I would like to briefly summarize its major provisions and give you my perspectives on several of them. I spoke briefly on this issue yesterday, but I wanted to make very clear my views on these important issues.

This title is scored to achieve a total of $23.4 billion in budgetary savings by the year 2003. Of this amount, all but $3 billion would be brought in by spectrum auctions.

This spectrum to be auctioned will be derived from several different sources. Some of it consists of analog broadcast TV channels that will be reclaimed from TV broadcasters as they move to their new digital TV channels. Ten channels of this TV spectrum located between Channels 60 and 69 will be cleared of current users and reallocated for different uses ion an expedited basis. Of these ten channels, four—a total of 24 megahertz of spectrum—will be reallocated for use by the nation's police, fire, and emergency medical personnel and essential public safety communications.

As demonstrated at a Commerce Committee hearing earlier this year, public safety users have endured severe spectrum shortages over the course of the last decade. This spectrum shortage has hindered them from using advanced video and data transmission technologies, but it has had an even more devastating impact on their ability to communicate acceptably using current technology. As demonstrated in the recent tragedies in Oklahoma City and the World Trade Tower, public safety officials found they could not rely on their radio communications to reach individuals working at different places at the disaster scene.

Reallocating this 24 megahertz to public safety will take a big step forward in remedying what has truly become a national disgrace. I am profoundly glad that in this budget agreement today we have acknowledged the debt we owe those whose job it is to protect our lives and property by giving them a resource that is badly needed and too long denied.

The remaining 36 megahertz of spectrum in this band will be reallocated to other commercial uses and made available by auction. Clearing the band of incumbent low-power users to accelerate its availability for auction and to maximize its auction value will be furthered by a complementary provision of the bill that will allow the major incumbent low-power television licensees moved from this band to be accommodated in available spectrum below Channel 60. The bill also preserves the value of the spectrum below Channel 60, however, by stipulating that any such accommodation of qualifying low-power stations shall only be made if otherwise consistent with the FCC's digital table of allotments for those channels. This is a key provision in that it assures that we do not accommodate low-power stations, which are and will remain a secondary broadcast service, at the expense of possibly

disrupting the planned transition to digital television that will free up the broadcasters' analog broadcast channels for auction in the future.

The bill provides that the remaining analog TV channels below Channel 60 will be auctioned in the year 2002, notwithstanding the fact that they will not be turned back and available for use until December 31, 2006 at the earliest. I say ''at the earliest,'' Mr. President, because it is important to note that the bill contains several specified circumstances under which the FCC may extend this date for stations in individual television markets. Generally stated, the FCC may extend the date under any of these circumstances: first, if one of the market stations affiliated with one of the four largest national television networks is not broadcasting a digital signal, and that failure is not for lack of due diligences; second, that digital-to-analog converter technology isn't generally available in the market; or third, if more than 15 percent of the television households in the market do not subscribe to a multichannel digital program service that carries the local signals, do not have a digital television receiver, and do not have at least one analog TV receiver equipped with a digital-to-analog converter.

Mr. President, this waiver standard is a compromise between the original provision in the House bill, which was so liberal it potentially would have caused the analog broadcast channels to never have had to have been returned for auction, and the Senate version, which was more rigorous in that it would have required the return of analog channels given the general availability to consumers of other means of receiving digital signals.

I would clearly prefer the more rigorous test. In saying this, I am not giving short shrift to the interests of TV viewers in my desire to have some reasonable assurance that the government may reclaim this extraordinarily valuable analog TV spectrum by a specified date and auction it to help defray the deficit. Rather, I agree with organizations like Consumer Federation of America, Consumers Union, Public Citizen and the National Taxpayers Union, all of whom favor a hard-and-fast analog channel turnback date of 2006 and all of whom say that the consumer electronics industry is being perfectly realistic in its projections that digital-to-analog converter technology will, in fact, be generally available by the year 2006 at a cost comparable to, or less than, the cost of the cheapest black-and-white TV sets today.

So, Mr. President, when it comes to the bill's provisions on the analog channel turnback date, I fear we have inadvisedly undercut the value this spectrum might otherwise bring at auction by including a waiver standard in this bill that unnecessarily signals to bidders in 2002 that the spectrum they're bidding on may not become available on any definitive date.

The only way to remedy this problem, Mr. President, is to expand the pool of bidders who, notwithstanding this uncertainty, have a particular incentive, plus substantial financial resources, to bid on this spectrum anyway. The bill does this in an innovative but careful fashion by waiving otherwise-applicable FCC ownership restrictions to allow television licensees and newspaper owners in cities having a population of over 400,000 to bid on this spectrum and use it for whatever use the FCC finds it to be suitable, including television.

The infusion of capital these multi-billion-dollar mass media players will bring to the analog auctions in these markets will be substantial. And yet, Mr. President, our bedrock concern over assuring a diversity of mass media viewpoints will not be compromised in any significant way.

I say this because this waiver is limited in scope, applying only to stations and newspapers in our 33 largest cities. In the smallest of these large cities—which happens to be Tucson, by the way—there are over forty broadcast stations. The largest city in terms of number of broadcast outlets, Los Angeles, has 72 radio and TV stations. In thinking about diversity in today's world, we also need to remember the role cable television and the Internet now play in giving people instant access to a variety of sources of news and information unimaginable when the FCC first developed these ownership restrictions decades ago.

So, Mr. President, this provision will re-infuse into the analog auctions capital we may have otherwise drained by our provisions for waiving the analog turnback date, and it will do this only in those places where the positive effect on auction values can be expected to be greatest while, at the same time, the tremendous diversity of information sources available today assures that consumers will suffer no meaningful loss of viewpoints as a result.

One final category of new broadcast spectrum auctions should be mentioned. This bill would revoke the FCC's authority to use lotteries to select the licensees of new commercial radio and television stations where there is more than one mutually-exclusive applicant, and instead provides for the use of auctions.

This measure, Mr. President, is not designed to raise revenues, although it will unquestionably do so; but rather to provide a straightforward and sensible alternative to the FCC's old, time-consuming comparative hearing process. In addition to the length of time this process took to ultimately determine which party would get the license—oftentimes years—the application of the convoluted system of comparative criteria often selected winners based on essentially meaningless differences between the applicants. Not surprisingly, this approach was essentially struck down by the court several years ago. Auctions will provide an efficient way to dispose of the many hundreds of cases that have stacked up undecided since the court's decision, and provide a similarly efficient way of selecting licensees in the future. Those applicants who have applications pending before the Commission will be given a special period of 180 days in which to settle their applications and avoid auctions. In view of the different circumstances pertaining where multiple applicants for noncommercial educational stations are involved, the FCC may use lotteries to select licensees for such stations.

So much for analog television spectrum, Mr. President. In addition to all this spectrum, the bill also provides for the accelerated auction during the out-years of 45 megahertz of spectrum previously identified for this purpose by NTIA and the FCC. The bill further tasks NTIA and FCC to cause 75 more megahertz of spectrum, 55 of which is specifically identified in the bill, to be reallocated from its current shared or exclusive government use and made available for auction. Concerns over the possible inability to find suitable substitute spectrum for incumbent users are mitigated, and the auction revenues preserved, by further provisions enabling the President to nominate spectrum for reallocation other than the bands specified in the bill if these substitute bands can be shown to bring comparable auction revenue. Further enhancing the likely value of this reallocated government spectrum at auction are complementary provisions authorizing private suers to reimburse incumbent federal government licensees in these bands for the cost of moving to their new spectrum bands on an expedited basis.

In addition, the bill contains several provisions designed to enhance the revenues spectrum auctions will bring in by improving the auction process itself. Specifically, the bill would require the FCC to test contingent combinatorial auction bidding, a system which many believe helps bidders optimize their bidding strategy and thereby increases auction proceeds. It also requires the FCC to allow sufficient time prior to an auction to develop and promulgate auction rules that potential bidders can have an opportunity to factor into their bidding and business strategies. It also requires the FCC to establish reserve prices and minimum bids. Finally, it eliminates the entrepreneurial uncertainty, and consequent lessened auction revenues, that is caused when spectrum is allocated for any and all unspecified uses. It does this by stating certain, limiting conditions and procedures under which the FCC will be permitted to allocated spectrum for flexible use in the future. Collectively these provisions should result in increased revenue from spectrum auctions.

This brings me, Mr. President, to one final provision of the bill intended to bring in an additional $3 billion: namely, the stratagem whereby $3 billion is

shifted between the Treasury and the universal service fund in such a way that it appears that $3 billion in new revenue will be deposited in the Treasury in fiscal year 2002. This provision, which has been foisted on us by the Administration and its Office of Management and Budget, is nothing more than a contrivance designed to make it appear that a $3 billion budget deficit has been plugged, when all that will really happen is that the fund will pay back to the Treasury precisely the amount that the Treasury will first have given the fund. It's a disingenuous and dangerous policy to pursue, and one I intend to examine critically in Commerce Committee hearings in September.

In the meantime, the important thing to stress is that the telephone industry universal service fund will not lose a dime. And because telephone companies' payments into the fund are rescheduled, the amount of money they ultimately pay in will not be affected, and this should assure that telephone bills won't go up either, at least for this reason.

Nevertheless, Mr. President, let's be plain: a scam is a scam is a scam, and we should not condone scams, even those that don't appear to actually hurt anything. But I suggest that the better remedy is to pass legislation that will not only address this particular scam, but also make sure that others like it won't be foisted on us again. The Commerce Committee will address this in September, to guarantee the integrity of the universal service fund and the continuity of the essential telecommunications services subsidized it.

This brings me to more fundamental concerns I have with the bill—concerns I have stated before, but concerns that must be stated once more. I have not believed, and I remain unconvinced, that the spectrum auctions provided for in the bill will generate anywhere near the $21.4 billion that CBO estimates they will. I believe this is too much spectrum to put on the market in too compressed a timeframe. 75 percent of the revenues estimated to be generated is to come from auctions held in the out-years of 2002 and 2003. Even under the best of circumstances, it is counterintuitive to think that flooding the market with spectrum in those years will not substantially depress its value.

And these aren't even the best of circumstances, Mr. President. I have already alluded to the devaluation that will inevitably result from bidding on spectrum that is variously unavailable for a number of years after the auction or encumbered with existing users who must be relocated. But the bottom line is, the scoring process and the demand to bring the revenues in within the five-year budget balancing window have made better approaches impossible.

None of this should be interpreted as an indirect way of saying that spectrum auctions are a failure. But I have advocated them as an efficient way of assigning spectrum licenses that allows the public, to whom the spectrum belongs, to realize the benefit of its market value. But it cannot be forgotten that spectrum auctions are not, and never were, intended to be a kind of ATM for Congress to run to every time it needs a certain amount of money. Like any auction, spectrum auctions are subject to unpredictable vagaries that cannot be forecast, much less satisfactorily defended against. For this reason, like any auction, spectrum auctions cannot be relied upon to produce any given amount of money. But despite this fact, Mr. President, that's exactly what you're banking on—and I do mean ''banking on'' in its literal sense—when you rely on spectrum auctions to wipe out a substantial chunk of the budget deficit by 2003.

Let me just say that I do not think it likely that spectrum auctions will realize the $21.4 billion in revenue that has been estimated. Nevertheless, the bill we vote on today will at least set us on the road to achieving a balanced budget. For this reason, and despite my misgivings about the credibility of achieving the amount of budget savings we hope to achieve from this part of the package, I support the legislation.

MEDICARE IMPROVEMENTS

The Balanced Budget Act contains important changes to the Medicare system which will strengthen the program and protect it for current and future beneficiaries. The bill preserves and protects the Medicare program, while increasing choice within the program and expanding benefits for beneficiaries. The Medicare Choice program created in this bill will allow seniors to select from a wide variety of options, including HMOs, PPOs, PSOs, and Private Fee-for-Service programs. In addition, the bill creates a Medical Savings Account demonstration program which will allow 390,000 beneficiaries to select a high-deductible Medicare Choice plan.

Key provisions of the bill will help eliminate waste and fraud in the Medicare system which could result in significant savings. Significant portions of the ''Medicare Whistleblower'' legislation which I introduced earlier this year are incorporated into the fraud prevention section of this bill. Seniors will now have the ability to request copies of their Medicare billing statements. In addition, seniors will be able to easily report suspected fraud and abuse in the system.

Overall, the Medicare reforms in this plan will produce $115 billion in savings over the next five years, which protects the program for today's senior citizens and ensures Medicare will be available for future beneficiaries. In addition, the bill establishes a commission to study the Medicare system, with a mandate to make recommendations by March of 1999 on comprehensive reform of the program. I firmly believe that our priority must remain protecting the Medicare system from bankruptcy by the year 2001, and I believe that this bill is an important first step in working toward that goal.

CHILDREN'S HEALTH CARE

The Balanced Budget Act provides $24 billion to improve access to health insurance for uninsured children in our country and put affordable health care insurance within the reach of every family. This new federal funding will allow states to expand Medicaid coverage or create innovative new programs which will address the specific health care needs of low-income children.

Providing access to health care for uninsured children has been a priority for me since coming to the Senate. During the 103rd Congress, I offered legislation to address this problem, and I am pleased that we are able now to implement this new program for our nation's children.

WELFARE REFORM

Last year, Congress made significant progress in reforming our welfare system when we passed the Personal Responsibility and Work Opportunity Reconciliation Act. This much-needed legislation is dramatically improving our nation's welfare system and reducing the costs of the system, by requiring able-bodied welfare recipients to work and encouraging individuals to become self-sufficient.

However, the welfare reform law denied certain forms of public assistance to legal immigrants who were residing in this country prior to enactment of the legislation. At the time, I had concerns about the potentially disastrous impact this law would have on children, the disabled, and elderly legal immigrants who would lose vital support services such as Medicaid and Supplemental Security Income (SSI). I am pleased that this bill restores SSI eligibility for certain legal immigrants and refugees. In addition, children who are legal immigrants will be eligible for health insurance coverage as a part of the new, expanded health insurance coverage contained in this package. These provisions will provide necessary safeguards for these vulnerable populations as we continue implementing the new welfare law.

MEDICAID PROGRAMS

Five states, including Arizona, operate managed care Medicaid programs, through a Section 1115 waiver. Each of these states have expanded coverage to children and vulnerable uninsured people beyond the traditional Medicaid categories. They have been able to provide these expanded services by using their disproportionate share hospital (DSH) funds.

I worked with my colleagues from the five affected states to protect the option to provide this expanded coverage. The Balanced Budget Act clarifies that states which use their DSH payments for Section 1115 health care expansions would not be penalized by

the limitations being placed on DSH payments as a part of Medicaid reform in this bill. Our states will be able to continue providing innovative and cost effective health care coverage to otherwise uninsured populations.

I am concerned, however, that the Medicaid reforms in this bill do not include several important provisions.

The conferees eliminated an important provision contained in the Senate bill which would provide incentives for states to devise innovative ways to meet expanding demand for access to Medicaid-funded health care coverage. This provision would have authorized the continuation of a state's successful Section 1115 waiver program and allow the states to expand coverage using state resources. This provision would have lowered both state and federal costs of these programs, and allowed states to expand coverage to their most vulnerable populations. I am very disappointed that the conferees did not include it in the conference agreement.

SCHOOL CHOICE

After the negotiations on the Balanced Budget Act were completed, President Clinton made a last-minute threat to veto the bill because it contained an innovative and important educational provision that he claimed would ''undermine public education''. This provision would have given parents the freedom to choose a school for their children based on their unique educational needs. Parents would have been able to withdraw funds from education savings accounts to pay tuition at the school of their choice—public, private or sectarian. I find it greatly disconcerting that President Clinton used the threat of a veto to force Congress to eliminate a provision which would have granted equal educational opportunity to all students.

MEDICARE SUBVENTION FOR MILITARY RETIREES

I am pleased that the conferees retained the Senate provision to authorize a pilot program to demonstrate the cost-effectiveness of allowing Medicare reimbursement to military medical facilities that treat Medicare-eligible military retirees. This provision will significantly decrease costs to both the federal government and military retirees.

The provision authorizes the Secretary of Defense and the Secretary of Health and Human Services to establish a demonstration project wherein the Secretary of HHS would reimburse the Secretary of Defense from the medicare trust funds for health care services furnished to medicare-eligible military retirees or dependents. The three-year project, beginning on January 1, 1998, is limited to six sites within the military TRICARE regions. The TRICARE enrollment fee would be waived for persons enrolled in the managed care option of TRICARE and the minimum benefits would include at least the Medicare benefits. The demonstration project is expected to cost $55 million in 1998, $65 million in 1999, and $75 million in 2000.

There are currently 1.3 million military retirees age 65 and older, about 97% of whom are eligible for Medicare. About 230,000 currently use military treatment facilities on a regular basis when space is available, at a cost of $1.2 million per year.

The cost of providing health care to military retirees through civilian Medicare providers has been estimated to be significantly higher than the care that is provided at a military treatment facility. In fact, the Department of Defense (DOD) found that the cost of care at a military treatment facility is 10–24 percent less than that at a civilian facility. DOD has testified to the Congress that they would be able to enroll and treat more Medicare-eligible beneficiaries at a lower cost to the government.

I am disappointed that the Senate provision to provide this critical medical benefit to our nation's veterans was not included in the conference agreement. I hope that this pilot program for military retirees will provide the impetus for legislation to extend the program to veterans.

PORK-BARREL SPENDING

I am sorry to say that the Balanced Budget Act does contain some earmarks and special interest provisions, although I am happy to report that there are very few in this bill.

It is unconscionable that the Congress would have the audacity to protect special interests in this bill, when the money wasted could have been used to provide additional tax relief for working Americans, higher funding for children's health care, improved education programs, or just to reduce the deficit.

I ask unanimous consent that the list of special interest items be printed in the RECORD.

DEBT LIMIT INCREASE

Finally, Mr. President, I note with some dismay that the Balanced Budget Act increases the limit on the amount of debt the federal government can incur to $5.95 trillion. I just want to point out to my colleagues the irony of increasing the debt limit in a balanced budget act. Even as we pass this legislation to reduce federal spending by $270 billion over the next five years, we are forced to acknowledge that annual deficits will continue to add to our enormous national debt for several more years.

CONCLUSION

Mr. President, I hope that these two bills will provide the deficit reduction and tax relief promised to the American people. Certainly, it has not been possible to thoroughly analyze each provision of the legislation in the short time it has been available to Senators. If, however, we remain committed to the fiscal responsibility embodied in the Balanced Budget Act and the tax fairness of the Taxpayer Relief Act, the American people will soon reap the benefits of both lower taxes and a declining national debt.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

OBJECTIONABLE PROVISIONS IN THE CONFERENCE AGREEMENT ON H.R. 2015, THE BALANCED BUDGET ACT

BILL LANGUAGE

Sec. 4011: Mandates establishment of Medicare Prepaid Competitive Pricing Demonstration Projects, initially in 4 areas (including one rural area), and then in up to 3 additional areas

Sec. 4016: Mandates establishment of 9 Medicare Coordinated Care Demonstration Projects, 5 in urban areas, 3 in rural areas, and 1 in the District of Columbia ''operated by a nonprofit academic medical center that maintains a National Cancer Institute certified comprehensive cancer center''

Sec. 4019: Extends for two more years the Community Nursing Organization demonstration projects in Mahomet, Illinois; Tucson, Arizona; New York, New York; and St. Paul, Minnesota

Sec. 4921 and 4922: Creates two new grant programs for children diabetes and diabetes in Indians—NOT IN EITHER BILL

Sec. 4201: Grandfathers ''any medical assistance facility operating in Montana'' as a federally certified critical access hospital ''if such facility . . . is otherwise eligible to be designated by the State as a critical access hospital''; report language states that the intent of the conferees is that ''there be no gap in grant money from HCFA to Montana''.

Sec. 4207: Mandates establishment of a single, four-year Informatics, Telemedicine, and Education Demonstration Project, using a telemedicine network that is defined as ''a consortium that includes at least one tertiary care hospital (but no more than 2 such hospitals), at least one medical school, no more than 4 facilites in rural or urban areas, and at least one regional telecommunications provider'' and that meets certain criteria, including that the consortium ''is located in the area with a high concentration of medical schools and tertiary care facilities in the United States''

Sec. 4408: Reclassifies Stanly County, North Carolina, as part of the larg urban area of Charlotte-Gastonia-Rock Hill—North Carolina—South Carolina for purposes of Medicare PPS payments to impatient hospitals

Sec. 4417: Extends the status of a long-term care hospital ''a hospital that was classified by the Secretary on or before September 30, 1995, as a [long-term care] hospital . . . notwithstanding that it is located in the same building as, or on the same campus as, another hospital''.

Sec. 4418: Designates as a PPS-exempt cancer hosptial ''a hospital that was recognized as a comprehensive cancer center or clinical cancer research center by the National Cancer Institute of the National Institutes of Health as of April 20, 1983, that is located in a States which, as of December 19, 1989, was not operating a demonstration project under section 1814(b), that applied and was denied, on or before December 31, 1990, for classification as a hospital involved extensively in treatment for or research on cancer . . ., that . . . is licensed for less than 50 acute care beds, and that demonstrates for the 4-year period ending on December 31, 1996, that at least 50 percent of its total discharges have a principal finding of neoplastic disease. . . .''

Sec. 4643: Establishes Office of Chief Actuary for HCFA—NOT IN EITHER BILL

Sec. 4725: Increases Federal medical assistance payments to Alaska (increase of 9.8%) and the District of Columbia (increase of 20%)

Sec. 4758: Exempts Kent Community Hospital Complex and Saginaw Community Hospital in Michigan from classification as institution for mental disease through December 31, 2002

Sec. 9301: Requires that the Federal share of food-related disaster assistance for Kittson, Marshall, Polk, Norman, Clay, and Wilkin Counties in Minnesota shall be at least 90 percent

REPORT LANGUAGE

States conferees' intention that HHS grant waivers of transitional rules for Medicare HMO programs to the Wellness Plan in Southeastern Michigan and the Watts Health Foundation

## NOTICE OF DECISION OF THE BOARD OF DIRECTORS

Mr. THURMOND. Mr. President, the Board of Directors of the Office of Compliance has issued its first decision on appeal. The case involved an alleged violation of the Worker Adjustment and Retraining Notification [WARN] provisions made applicable by the Congressional Accountability Act of 1995. Pursuant to section 416(d) of the act and section 104(d) of the office's regulations, the Board has exercised its discretion to make the decision public. It will be publicly available at the Office of Compliance and of the Office's Internet Website.

I ask unanimous consent that the decision of the Board of Directors be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF COMPLIANCE

GERARD J. SCHMELZER, Appellant, v. OFFICE OF THE CHIEF ADMINISTRATIVE OFFICER, U.S. House of Representatives, Appellee.

(Case No. 96–HS–14 (WN))

Before the Board of Directors: Glen D. Nager, Chair; James N. Adler; Jerry M. Hunter; Lawrence Z. Lorber; Virginia A. Seitz, Members.

DECISION OF THE BOARD OF DIRECTORS

These cases, consolidated on appeal, arise out of the privatization of the internal postal operations of the House of Representatives. Appellants are nine former employees of the House of Representatives, who served in House Postal Operations (the ''HPO'') under the Chief Administrative Officer (the ''CAO'') of the House. Appellants lost their jobs as a result of the privatization of the House's internal mail functions. They subsequently filed claims with the Office of Compliance alleging that the notice of the privatization that they received did not satisfy the requirements of the Worker Adjustment and Retraining Notification Act (the ''WARN Act''), as applied by section 205 of the Congressional Accountability Act of 1995 (the ''CAA''), 2 U.S.C. §1315, and the Board's implementing regulations.

Pursuant to section 405 of the CAA, 2 U.S.C. §1405, a Hearing Officer was appointed who heard all nine cases. Eight of the cases, in which the parties were represented by the same counsel, were consolidated for one hearing; the case of appellant Schmelzer, which raised the same issues, was heard in a separate hearing by the same Hearing Officer. In separate decisions issued the same day, the Hearing Officer determined, among other things, that the CAO had given legally sufficient notice to all appellants and, finding no violation of the Act, ordered entry of judgment in favor of the CAO in each case. Decision of the Hearing Officer in Gerald J. Schmelzer v. Office of the Chief Administrative Officer, U.S. House of Representatives (the ''Schmelzer Decision'') at 58-60. Decision of the Hearing Officer in Avis Quick et al. v. Office of the Chief Administrative Officer, U.S. House of Representatives (the ''Quick Decision'') at 59-61. (All citations hereinafter to the Hearing Officer's Decision or Findings of Fact shall be to Schmelzer, unless otherwise stated.)

The Hearing Officer found that a memorandum that the Office of the CAO distributed to HPO employees on December 13, 1995 (the ''December 13, 1995 memorandum'')[1] constituted written notice which substantially complied with the CAA's notice requirements, even though it was technically deficient, principally because it did not state the specific date on which appellants' employment would terminate, as required by the Board's regulations. The Hearing Officer concluded, however, that in the particular circumstances of this case, the technical defects of the memorandum were not fatal because the memorandum provided a general indication of the termination date and because that date had been communicated in meetings attended by all appellants, was widely publicized, was generally well-known, and was readily ascertainable by HPO employees. Decision at 58. These appeals followed.

I.

The Hearing Officer determined that the December 13, 1995 memorandum ''needs to be read in context'' in order to decide whether the omission of the specific closing date of the HPO compelled a finding of violation, Decision at 53, and, to that end, he considered the long and public process leading up to the privatization, including a series of updating memoranda and employee meetings which predated the terminations occasioned by the privatization of the HPO by sixty days or more. He found the following facts to be relevant.

The CAO's first plan to privatize HPO functions was submitted to the Committee on House Oversight of the House of Representatives (the ''Committee'') on February 28, 1995, and, at the Committee's request, the CAO twice submitted revised plans over the next several months. See Decision at 5. The Hearing Officer found that, during this period, the possible privatization of HPO operations was ''a subject of discussion and interest'' among HPO employees. Id.

On June 14, 1995, the Committee directed the CAO to issue a request for proposals (''RFP'') to contract out House mail functions, and, on that same day, CAO managers distributed a memorandum to HPO staff informing them of the Committee's action and assuring them that any selected vendor would be required to interview all interested current employees for future employment with the vendor. House Comm. on House Oversight, 104th Cong., 1st Sess., Resolution, ''Postal Operations.'' The Hearing Officer found that, at this point, the ''level of interest'' of HPO employees in the possibility of privatization ''increased.'' Decision at 5. An RFP was published in Commerce Business Daily during August, and, on September 8, 1995, the Office of the CAO distributed another memorandum to HPO employees. See id. at 6.

The memorandum of September 8, 1995 stated that it was written in response to employee inquiries: ''many of you have requested an update on the status of the [RFP] to outsource Postal Operations.''[2] Id. The memorandum reiterated that the winning bidder would ''interview all interested Postal Operations employees for possible employment.'' Id. The memorandum also gave employees a schedule for the transition to the private contractor, stating that final bids were due in by September 15, 1995 and that review and recommendation on award of the contract was due to the Committee at the beginning of November. See id. The September 8 memorandum concluded by telling employees when the privatization was due to take place: ''[t]he new facilities management company is scheduled to begin operations in mid-December.'' Id. The memorandum also offered to answer any ''additional questions'' that employees might have. Id.

On December 13, 1995, the Committee adopted a resolution directing that ''all functions of House Postal Operations shall be terminated as of the close of business on Tuesday, February 13, 1996'' and authorizing the CAO to contract with Pitney Bowes Management Services, Inc. (''PBMS'' or ''Pitney Bowes'') to provide those internal mail services for the House. House Comm. on House Oversight, 104th Cong., 1st Sess., Resolution, ''House Postal Contract.''[3] The Committee resolution also instructed the CAO ''to immediately provide sixty days notice to existing House employees affected [by the privatization].'' Id. One of the appellants attended the Committee meeting, and the resolution of the Committee was posted for several days on the bulletin board at the main HPO facility. See Findings of Fact at 3; Quick Findings of Fact at 4.

On that same day, soon after the Committee meeting, in response to the Committee's action, CAO management asked all HPO employees who were present at work to attend either of two meetings. It was at these meetings that CAO officials distributed the December 13, 1995 memorandum, which announced to employees the award of the contract to Pitney Bowes and explained that the contractor would distribute applications for employment the next day and would make its hiring decisions in January, 1996. See Decision at 7. The memorandum also promised that support, resources, and employee assistance programs would be provided ''[t]o make the transition from employment with the U.S. House of Representatives as smooth as possible. * * *'' Id. at 48. CAO managers also explained at the December 13 meeting that February 14, 1996, Valentine's Day, was the target date for Pitney Bowes to begin operations. See id. at 57.

Appellant Schmelzer acknowledged having received a copy of the December 13, 1995 memorandum at one of the meetings, as did one of the other appellants. See id. at 46; Quick Decision at 48. All of the other appellants likewise attended one of the meetings. See Quick Decision at 47–48.

On the next day, December 14, 1995, further meetings were convened, at which Pitney Bowes met with the employees and distributed job applications. Several representatives of the CAO and of Pitney Bowes spoke, and it was stated at several points that Pitney Bowes would begin serving as the House's mail delivery contractor on Valentine's Day, February 14, 1996. See Findings of Fact at 4; Quick Findings of Fact at 5. All appellants attended one of these meetings, and all submitted job applications to Pitney Bowes. See Findings of Fact at 4; Quick Findings of Fact at 5.

On January 22, 1996, individual letters were hand-delivered to all HPO employees present

[1] The December 13, 1995 memorandum is reproduced as Appendix A to this opinion.

[2] The September 8, 1995 memorandum is reproduced as Appendix B to this opinion.

[3] The December 13, 1995 Committee Resolution is reproduced as Appendix C to this opinion.

at work. Each letter stated that Pitney Bowes would assume mail delivery functions on February 14, 1996, and that the recipient's employment with the House would terminate at close-of-business on February 13, 1996. All but two of the appellants were at work on January 22 and received the letter on that day. The two other appellants received their letters on January 23 and January 29, when each returned to work. See Findings of Fact at 5; Quick Findings of Fact at 6–7. The legal sufficiency of the notice provided by these letters is undisputed.

Both before and after the Committee's December 13, 1995 decision to terminate all functions of the HPO, the CAO offered an array of support services to HPO employees. See Decision at 8–9; Quick Decision at 9–10. These included establishing an outplacement service office, which assisted employees with resume writing and preparing job applications, as well as offering coaching on how to interview. See Transcript in Quick at 179–184. A job bank listing sources both inside the Congress and outside, as well as a bank of computers and telephones for employee use, were also provided. See id. Staff of the outplacement service also furnished information on ''Ramspeck'' rights, health insurance, and other employee benefits, as well as other transition advice. See id.; Transcript in Schmelzer at 114. In addition to the services provided in-house, the CAO had arranged for the District of Columbia Employment Services to present two workshops for postal employees on October 20, 1995, entitled, ''Job Hunting in Today's Tight Job Market,'' which, among other things, explained the training opportunities under the Economic Dislocation and Worker Assistance Act. See Transcript in Quick at 182–83. Appellant Schmelzer, among others, made use of the outplacement and other services provided by the CAO for HPO employees. See Findings of Fact at 5.

Appellants' employment with the House of Representatives ended when HPO functions ceased at close of business on February 13, 1996. Overall, of the 113 employees affected by the privatization, three remained employed by the House of Representatives under the CAO, and Pitney Bowes extended offers of employment to 90 of the HPO employees, of whom about two-thirds accepted and began working for Pitney Bowes directly from their House employment, when Pitney Bowes took over the internal House postal operations on February 14, 1996. See Decision at 9. All appellants interviewed for employment with Pitney Bowes; two were not given offers of employment; the rest declined the offers tendered. See id. at 8–9; Quick Decision at 8–9.

II. A.

Appellants petitioned the Board to review and reverse the Hearing Officer's decisions. They argue that the Hearing Officer misconstrued the applicable law in concluding that the December 13, 1995 memorandum substantially complied with the notice requirements of the WARN Act, as applied by the CAA. Appellants in Quick also argue on appeal that the Hearing Officer erred in concluding that the distribution of the December 13, 1995 memorandum constituted a reasonable method of delivery. Appellant Schmelzer does not join in this contention, having acknowledged his receipt of the December 13, 1995 memorandum. See Findings of Fact at 4; see also Appellant's Brief at 7.

Appellee CAO seeks affirmance on a number of grounds. Appellee argues that the Hearing Officer's conclusion that the notice provided by the CAO substantially complied with section 205 of the CAA and the pertinent regulations is based on the correct application of law and is supported by substantial evidence in the record. Alternatively, appellee argues that, as a matter of law, section 205 of the CAA did not apply to the closing of the HPO because the decision to close the HPO was made and notice to employees of the closing was delivered before the effective date of section 205 of the CAA. Appellee also contends that fewer than fifty employees actually suffered an employment loss when the number of employees who were offered employment with Pitney Bowes is calculated under the sale of business/privatization exclusion of section 2(b)(1) of the WARN Act, 29 U.S.C. §2101(b)(1), as applied by section 225(f)(1) of the CAA, 2 U.S.C. §1361(f)(1), and section 639.4(c) of the Board's regulations. In addition, appellee argues that, even if the CAO were to be found liable for a technical violation of the notice requirements, the Hearing Officer's findings of fact support granting the CAO a good faith reduction or elimination of damages, as provided by section 5(a)(4) of the WARN Act, 29 U.S.C. §2104(a)(4), as applied by section 205(b) of the CAA, 2 U.S.C. §1315(b).

Because the Board agrees with the Hearing Officer's conclusion that, in the totality of the circumstances here, the notice provided by the December 13, 1995 memorandum substantially complied with the notice requirements of the Act and the applicable regulations, we do not reach the alternative grounds for affirmance urged by the CAO. We therefore turn to the notice requirements of the Act and the Board's WARN Act regulations.[4]

II. B.

Section 205(a) of the CAA provides ''Worker Adjustment and Retraining Notification Rights'' to covered employees, as follows: ''No employing office shall be closed or a mass layoff ordered within the meaning of section 3 of the Worker Adjustment and Retraining Notification Act (29 U.S.C. §2102) until the end of a 60-day period after the employing office serves written notice of such prospective closing or layoff to representatives of covered employees or, if there are no representatives, to covered employees.''

While the statute does not explicitly state what the notice must contain, the regulations have mandated that certain information be provided in order to effectuate the purpose of the WARN Act to provide workers with adequate advance notification of an employment loss. As explained in the Department of Labor's regulations and in section 639.1(a) of the Board's Interim Regulations, WARN Act notice ''provides workers and their families some transition time to adjust to the prospective loss of employment, to seek and obtain alternative jobs and, if necessary, to enter skill training or retraining that will allow these workers to successfully compete in the job market.'' Notice of Adoption of Regulation and Submission for Approval and Issuance of Interim Regulations, 142 Cong. Rec. S271–72 (daily ed. Jan. 22, 1996) (All citations are to the ''Interim Regulations,'' which were in effect at the time of the privatization of the HPO). See also the Department of Labor's response to comments on its regulatory notice requirements: ''While the Act does not enumerate specific elements which should be included in the advance written notice, * * * [t]he content of notice to each party [required by the regulations] is designed to provide information necessary for each of them to take responsible action.'' 54 Fed. Reg. 16042, 16059 (April 20, 1989) (Response to Comments, section 639.7(d) WARN Notice).

To effectuate the notification purposes of the WARN Act, section 639.7(d) of the Board's Interim Regulations, like the Department of Labor's WARN Act regulations, requires that notice to individual employees contain the following four elements:

(1) A statement as to whether the planned action is expected to be permanent or temporary and, if the entire office is to be closed, a statement to that effect;

(2) The expected date when the office closing or mass layoff will commence and the expected date when the individual employee will be separated;

(3) An indication whether or not bumping rights exist;

(4) The name and telephone number of an employing office official to contact for further information.

142 Cong. Rec. S270, S274 (daily ed. Jan. 22, 1996).

Courts construing these notice requirements have, in light of the notice purposes of the WARN Act, distinguished between the situation in which an employer has failed to provide any written notice, and the situation in which written notice was provided, but the contents of the notice failed to meet the technical requirements of the regulations. See, e.g., Carpenters Dist. Council v. Dillard Dep't Stores, 15 F.3d 1275, 1287 n.19 (5th Cir. 1994), cert. denied, 115 S.Ct. 933 (1995); accord Saxion v. Titan-C-Mfg. Inc., 86 F.3d 553, 561 (6th Cir. 1996); Marques v. Telles Ranch, 867 F. Supp. 1438, 1445-46 (N.D. Cal. 1994); United Automobile Aerospace & Agricultural Implement of America Local 1077 v. Shadyside Stamping Corp., 1991 WL 340191 (S.D. Ohio) (dictum), aff'd without published opinion, 947 F.2d 946 (6th Cir.1991). The Hearing Officer appropriately was guided by these cases, which we also find to be persuasive.[5]

In Dillard, the court, considering the adequacy of notices that gave inaccurate termination dates, noted that ''neither the regulations nor the Act itself addresses how courts are to treat notices that are determined to be defective or inadequate. As such, neither the Act nor the regulations suggest that defective notice is automatically to be treated as though no notice had been provided at all.'' 15 F.3d at 1287 n.19 (citation omitted). Similarly, the Saxion court, quoting Dillard with approval in a case in which the notice failed to give a termination date, among its other technical deficiencies, concluded: ''We are not persuaded that the technical deficiencies in the March 13 letter required the district court to proceed as if there had been no notice at all.'' 86 F.3d at 561. Likewise, in Marques, the court again quoted Dillard with approval, and construed the Department of Labor regulations as providing that ''technical deficiencies or omissions in notice do not invalidate notice or result in WARN liability.'' 867 F. Supp. at 1445. In that case, the court found adequate a WARN notice provided to seasonal workers during their seasonal lay-off, despite its lack of date, because the court concluded that, in context, the notice could only be read as referring to a permanent layoff beginning in the upcoming harvest season. Id. at 1446. Finally, in

[4] The CAO has raised the question whether the Board's WARN Act regulations can fairly be applied to the December 13, 1995 notice since these regulations did not go into effect until January 23, 1996. In light of our disposition of the case, the Board need not decide this issue which, in the unique circumstances of this case, is without precedential value. We note, however, that the Board's regulations are, as required by section 205(c)(2) of the CAA, substantively the same as the Department of Labor WARN Act regulations. See also section 411 of the CAA (stating that the Department of Labor's WARN Act regulations apply ''to the extent necessary and appropriate'' where the Board has not issued a regulation required by the CAA to implement a statutory provision).

[5] Section 405(h) of the CAA provides that ''[a] hearing officer who conducts a hearing * * * shall be guided by judicial decisions under the laws made applicable by section 102 [of the CAA] * * *.'' 2 U.S.C. §1405(h).

Shadyside Stamping Corp., the court, analyzing whether notices that, among other things, failed to provide precise termination dates, were nonetheless adequate, found relevant whether ''all the information required to be provided by the employer was produced *or at least well known*.'' 1991 WL 34091 at star page 7 (emphasis added). Thus, all four cases stand for the proposition that omitting termination dates or providing inaccurate termination dates does not necessarily render written WARN notices fatally deficient.

The Department of Labor's interpretative comments to the enforcement provisions of its WARN Act regulations also distinguish between the failure to give notice and the provision of technically defective notice. The Department of Labor's commentary on its WARN Act regulations provides guidance that ''technical violations of the notice requirements not intended to evade the purposes of WARN ought to be treated differently than either the failure to give notice or the giving of notice intended to evade the purposes of the Act.'' 54 Fed. Reg. 16042, 16043 (April 20, 1989) (Response to Comments, section 639.1(d) WARN Enforcement). Some ''technical violations'' are best characterized as ''minor, inadvertent errors,'' which the Department of Labor states ''are not intended to be violations of the regulations.'' Id. ''Other kinds of violations, i.e., the failure to provide information required in these regulations, may constitute a violation of WARN.'' Id. (emphasis added). Thus, the Department of Labor indicates that such errors ''may,'' but do not necessarily, violate the Act. We agree.

When faced with technically deficient WARN notices, courts have, consistent with the Department of Labor's view, asked whether, in the circumstances of the case, the employees nonetheless received notice that satisfies the purposes of the Act. See, e.g. Dillard, 15 F.3d. at 1286; Marques, 867 F. Supp. at 1445. In making that determination, courts have consistently looked at all the communications provided by employers to determine whether, when viewed in context, one or more written communications qualified as notice under the WARN Act and applicable regulations. See Kalwaytis v. Preferred Meal Systems, Inc., 78 F.3d 117, 121–22 (3d. Cir.), cert. denied, 117 S. Ct. 73 (1996); Dillard, 15 F.3d. at 1286–87; Saxion, 86 F.3d at 561; Marques, 867 F. Supp. at 1445–46. Cf. also Oil, Chemical and Atomic Workers Int'l Union v. American Home Products Corp., 790 F. Supp. 1441 (N.D. Ind. 1992) (employer who failed timely to update written notice provided one year in advance of closing which contained inaccurate termination date and who provided only seven days written notice of actual termination date was entitled to summary judgment based upon statutory good faith defense because the requirements of the regulations were unclear); Shadyside Stamping Corp., 1991 WL 340191 at star pages 8–10 (employer who provided five months written notice and a written reminder notice, but failed to meet the technical requirements of the regulations, was entitled to summary judgment based upon statutory good faith defense).

In Kalwaytis, the employer wrote a letter to employees laid off by the outsourcing of its school meal preparation services informing them that it was ceasing food service operations at its plant and contracting out that function. The initial letter stated that the new employer has ''an immediate offer of employment to make to you.'' Id. at 119. A later letter made clear that an offer of employment was in the contractor's discretion. Id. The court concluded that adequate notice had been provided: ''Giving a reasonably pragmatic interpretation of the two letters, we conclude that, read together, they do meet the statutory requirements of notice.'' Id. at 122.

Similarly, the Dillard court, construing a series of three written notices, the last two of which gave estimated termination dates that did not provide the full sixty days required by the WARN Act, found that employees who actually worked for at least sixty days after receipt of the notices were not entitled to back pay damages because they had, in fact, received the notice that they were entitled to under the Act. 15 F.3d. at 1286–87. The court concluded that any other interpretation was ''inconsistent with both the language and the purpose of the Act'' which requires only that an employer provide sixty days notice of termination. Id. at 1286.

Likewise, in Saxion, 86 F.3d at 561, the court found that appellant should not have been found in violation of the WARN Act for the full sixty-day period where, ten days before the plant shut down, appellant gave a written notice stating that the plant was going to close and giving the name and phone number of a company official to contact with further questions. The court reduced the violation period to fifty days, despite the omission of the date of the plant's shut down, concluding: ''[t]hat the notice was deficient in other respects does not change the fact that ten days before the plant was closed, the affected employees clearly knew that it was going to be closed.'' Id.

Finally, in Marques, 867 F. Supp. at 1445, the court analyzed the notice in light of whether the purpose of the notice provision was served and determined that, because none of the omissions in the notice caused harm to the employees, the technical deficiencies did not give rise to liability. The court found that, despite the lack of a specific separation date, the time frame could be determined from the notice and surrounding circumstances. Id. The omission of bumping rights was immaterial since employees did not enjoy such rights. Id. Further, ''although there was no name and number of a company official to contact for further information, Plaintiffs clearly knew and understood how to contact Defendants because Plaintiffs had done so every season to determine the date harvesting operations were to resume.'' Id. Thus, the deficiencies in the written notice did not undermine the notice purposes of the Act because employees either already knew the missing information from other contexts or could infer it from the notice and surrounding circumstances, or because it was irrelevant to their situation.

In sum, courts have approached the notice requirements with an eye to practicalities: ''Fairly read, the regulations require a practical and realistic appraisal of the information given to affected employees.'' Kalwaytis, 78 F.3d at 121–22. Evaluating the notices received by employees from that practical perspective, the courts in Marques, Saxion, and Dillard found that the omissions in the written notices did not undermine the purpose of the statute where the pertinent information that the written notice should have conveyed was actually known by, or was readily available to, the employees. Thus, under the applicable case law, the Hearing Officer was correct in concluding that: ''[u]nder prevailing WARN case law, neither the inclusion of inaccurate termination dates, nor the omission of termination dates altogether, necessarily renders a WARN notice defective, particularly if employees can easily ascertain the date from surrounding circumstances or readily available sources of information.'' Decision at 56.

II. C.

We also conclude that the substantial compliance standard adopted by the Hearing Officer is an appropriate standard to be used in determining if a violation has occurred. Indeed, all cases construing a written WARN notice that is technically defective because of the omission or inaccurate statement of a termination date use the substantial compliance standard, either explicitly, Marques, F. Supp. at 1446, and Shadyside Stamping Corp., 1991 WL 340191 at star pages 7–9, or implicitly, Saxion, 86 F.3d at 561, and Dillard, 15 F.3d at 1286–87 & n.19.[6]

This standard is particularly appropriate here because the instant cases arose during the early days of implementation of section 205 of the CAA. It was over a month before the January 23, 1996 effective date of section 205 of the CAA and of the Board's Interim Regulations that the Committee on House Oversight adopted the resolution instructing the CAO ''to immediately provide sixty days notice to existing House employees affected by the issuance of the contract.'' The memorandum from the CAO explaining the situation to employees was issued on the same date as the resolution. This was a period that the Board described as one of ''regulatory uncertainty.'' Notice of Issuance of Interim Regulations, 142 Cong. Rec. S270, S271 (daily ed. Jan. 22, 1996). As the Board there noted: ''[i]n the absence of the issuance of such interim regulations, covered employees, employing offices, and the Office of Compliance staff itself would be forced to operate in regulatory uncertainty. * * * [E]mploying offices and the Office of Compliance staff might not know what regulation, if any, would be found applicable in particular circumstances absent the procedures suggested here.'' Id.

In comparable circumstances, the Department of Labor concluded that ''* * * in the early days of WARN implementation substantial compliance with regulatory requirements should be sufficient to comply with WARN.'' 53 Fed. Reg. 48884–85 (1988) (notice adopting interim interpretative rules of Dec 2, 1988). Courts construing WARN notices issued during the transition period adopted the substantial compliance standard. See, e.g. Shadyside Stamping Corp., 1991 WL 340191, at star pages 7–9 (noting that the substantial compliance standard may be satisfied if the information missing from the notice was otherwise provided by the employer or was readily available to employees).

III.

With these principles in mind, we turn to the notice provided to employees in this case. The Board agrees with the Hearing Officer that the December 13, 1995 memorandum can fairly be read to supply two of the four elements required by section 639.7(d) of the Board's regulations, that is, a statement

[6]We note that courts have held that substantial compliance is sufficient to meet the notice requirements of a number of other employment-related regulatory schemes. For example, under ERISA, if a plan administrator denies a claim without providing notice that meets applicable regulatory requirements, several circuits have applied a ''substantial compliance'' standard in evaluating whether the defects in notice invalidate the plan administrator's decision. See Brogan v. Holland, 105 F.3d 158, 164–65 (4th Cir. 1997); Donato v. Metropolitan Life Ins. Co.,19 F.3d 375, 382–83 (7th Cir. 1994); see also Kent v. United of Omaha Life Ins. Co., 96 F.3d 803, 807 (6th Cir. 1996). A substantial compliance standard has also been applied to notice that unions must provide to employees regarding service fees, see Laramie v. County of Santa Clara, 784 F. Supp. 1492 (N.D. Cal. 1992), see also Chicago Teachers Union Local 1 v. Hudson, 475 U.S. 292, 307 n.18 (1986); notice procedure for discharging school teachers, see Roberts v. Van Buren Public Schools, 773 F.2d 949, 959 (8th Cir. 1985); and notice expressing intent to terminate a collective bargaining agreement, see Purex Corp. v. Automotive, Petroleum and Allied Indus. Employees Union, Local 618, 543 F. Supp. 1011, 1015–1016 (E.D. Mo. 1982), aff'd 705 F.2d 274 (8th Cir. 1983).

to the effect that House Postal Operations is to be permanently closed and the name and telephone number of an official to contact for further information. See sections 639.7(d)(1), (4).

Looking at the actual language of the memorandum, the Board agrees with the Hearing Officer's conclusion that today's government employees, especially those of the 104th Congress in which privatization had been a topic of debate, would reasonably understand that the issuance of a request for proposals ''to privatize the current House postal delivery operations'' meant that the House was seeking to contract with a private contractor to perform the jobs of the current incumbents. The only logical inference from the announcement of ''Pitney Bowes Management Services being selected as the House vendor for postal delivery operations'' is that this private contractor has now been hired to take over the functions of the HPO.

The memorandum also makes clear that jobs with the new contractor are not automatic. Employees must apply, go through an interview process, and await the contractor's independent hiring decisions. The memorandum states that ''the vendor has agreed to *interview* all current Postal Operations employees interested in *employment with their organization*'' (emphasis added). This confirms that the current House jobs in Postal Operations are going to be privatized and that future jobs in postal operations will be with the private contractor who is now conducting interviews for that employment. Moreover, the memorandum also states that hiring decisions will be made by PBMS: ''The vendor will inform you directly if you are selected for a position in their organization.'' Finally, the memorandum describes the services that will be made available to make the employees' ''*transition from employment with the U.S. House of Representatives* as smooth as possible'' (emphasis added). The plain meaning of ''transition from House employment'' is that the employees' current jobs will be terminated when PBMS takes over on February 14, 1996, a date that has been identified for the HPO employees. Thus, this notice is like the second notice in *Kalwaytis*, 78 F.3d at 122, which made clear that laid-off employees would have to apply for employment directly with the new employer. Therefore, the Board agrees with the Hearing Officer that the December 13, 1995 memorandum substantially complies with the requirement of section 639.7(d)(1) of the Board's Interim Regulations.

The memorandum gives employees several points of contact for further information, in satisfaction of section 639.7(d)(4). It provides the address and telephone numbers of ''[t]he Human Resources' Office of Training'' and the ''Outplacement Resources Center,'' as well as stating the full name and title of the memorandum's author, the Associate Administrator for Human Resources in the Office of the CAO. Clearly, employees knew how to get in touch with someone on the CAO's staff who could answer their questions. Moreover, the omission of the telephone number of the Associate Administrator for Human Resources was of no consequence; she spoke at the orientation meeting introducing Pitney Bowes Management Services, attended by all appellants, the day after the memorandum was distributed.

The memorandum fails, however, to inform employees whether bumping rights exist, as required by section 639.7(d)(3). However, there was no testimony during the Hearing regarding this omission, nor any complaint on appeal. Moreover, bumping rights have no relevance, where, as here, the entire operation is closed. See Marques, 867 F. Supp. at 1446. The Board therefore agrees with the Hearing Officer's conclusion that, in these circumstances, the omission of this information is a minor, inadvertent error, within the meaning of section 639.7(a)(4) of the Board's regulations.

The December 13, 1995 memorandum also fail to state explicitly the expected date of the office closing and the expected date when employees will be separated from employment, as required by section 639.7(d)(2). However, as the Hearing Officer concluded, ''[g]iven that the December 13, 1995 memorandum provides some indication of the privatization date (i.e., reasonably soon after completion of the interview process in January 1996), given that the date was fixed and certain and widely publicized in a variety of oral and written ways, and given that employees had a wealth of readily available means to ascertain the date, . . . [the failure to provide this date] does not compel a finding of violation.'' Decision at 58. While the December 13, 1995 memorandum was technically deficient in its failure to provide the date required by section 639.7(d)(2) of the Board's WARN Act regulations, the information missing from the notice was otherwise provided to employees by the CAO and also was readily available to them from a number of sources, at least sixty days in advance of the employees' termination, such that the purposes of the WARN Act were satisfied. See Marques, 867 F. Supp. at 1445–46; see also Saxion, 86 F.3d at 561; see also Shadyside Stamping Corp., 1991 WL 340191 at star pages 7–8.

Examining the record, moreover, the Board does not find that the omission of the termination date from the CAO's otherwise timely and adequate written notice defeated the purposes of the statute. Judged in the totality of the circumstances, the CAO took appropriate steps under the WARN Act, as applied by the CAA, to provide adequate notice for employees to make the transition to new employment. In the spirit of the purposes of the WARN Act, see section 639.1(a) of the Board's regulations, the CAO voluntarily gave employees early notice that the Committee on House Oversight was contemplating the privatization of the HPO. The CAO's June memorandum was updated by notice in September in a memorandum that provided an actual schedule for the privatization process, based on the best information then available. It is in this context that the December 13, 1995 memorandum must be read to determine whether the omission of the date deprived employees of legally sufficient notice of their date of termination.[7]

The December 13 memorandum states that the ''review/selection process'' for employment with PBMS ''will be completed in January, 1996.'' From that information, employees could expect that the contractor would begin operations shortly thereafter as, in fact, PBMS did. That conclusion is supported by the fact that the earlier memorandum of September 8, 1995 had notified employees that the contractor was ''scheduled to begin operations in mid-December,'' so that employees were already on written notice that the contractor would take over shortly. While it was clear by December 13, 1995, that the earlier deadline had slipped, the fact remains that, through the September 8, 1995 memorandum, employees had received written notice of a likely termination date, and were given updated information about the contractor's plans on December 13, 1995, over sixty days before their actual termination.

Looking at the September 8, 1995 memorandum together with the December 13, 1995 memorandum, the Board finds this to be a situation in which employees received multiple notices whose technical deficiencies do not merit a finding of liability. See, e.g., Kalwaytis, 78 F.3d at 121–22; Dillard, 15 F.3d at 1286–87 & n.19; cf. American Home Products, 790 F. Supp. at 1444–45, 1450–53; Shadyside Stamping Corp., 1991 WL 340191 at star pages 1–3, 8–11. Reading the letters together, and making ''a practical and realistic appraisal of the information given to affected employees,'' Kalwaytis, 78 F.3d at 121–22, the Board concludes that, over sixty days before their termination, appellants were provided with adequate information to determine that they were going to lose their government jobs on February 13, 1996, when the contractor took over House Postal Operations.

Thus, because appellants received over sixty days written notice from the mid-December estimated take-over by the contractor, they were like those employees in Dillard who worked past the estimated termination dates given in their notices such that they actually received over sixty days notice, see 15 F.3d at 1286–87 & n.19. As the Dillard court held, sixty days notice satisfies ''both the language and the purpose of the Act.'' Id. at 1286. Such actual notice of termination is what is essentially required by the notice requirements of the Act to give employees adequate notice to plan for the loss of their jobs. In such circumstances, the inaccuracy in the termination date is not fatal. See id.

Moreover, as the Hearing Officer found, the date was well known and widely disseminated. Decision at 56–58. Appellant Schmelzer, for example, conceded that he was well aware of the termination date; he wrote it on his application for employment with PBMS. See id. at 57. Another appellant attended part of the Committee meeting in which the resolution was passed that effected the February 13, 1996 closure of the HPO. See Quick Findings of Fact at 4. And the Committee's resolution was posted on the HPO bulletin board. See Decision at 56–57. Further, testimony credited by the Hearing Officer made clear that the date of Valentine's Day, February 14, 1996, was stated repeatedly at the December 14, 1995 meeting attended by all appellants. See id. at 57; Quick Decision at 58. In addition, the Hearing Officer noted seven ways by which any employee, still in doubt, could have ascertained the information. Decision at 57. Notable among his findings was the simple expedient of asking the question at either the December 13 or the December 14 meetings, attended by all appellants, during which the Office of the CAO not only provided question-and-answer periods, but also announced the February 14, 1996 date for PBMS to take over the HPO operations. Id. Or employees could have called any of the three official CAO management sources provided on the December 13, 1995 memorandum. Id.

The Board therefore concludes that there is substantial evidence in the record supporting the Hearing Officer's conclusion that, at least sixty days before the closing of the HPO, all appellants either knew the dates on which their employment with the House would terminate and PBMS would take over the functions of the HPO or attended a meeting that took place at least sixty days before the closing of the HPO, at which these dates were discussed. Thus, the notification purpose of the statute was satisfied despite the technical deficiencies in the December 13, 1995 memorandum. See Marques, 867 F. Supp. at 1445–46, see also Saxion, 86 F.3d at 561; Dillard, 15 F.3d at 1287 & n.19.

The only case cited by appellants as compelling a different result, American Home

[7] We note that the December 13, 1995 memorandum was part of the CAO's response to the Committee's direction to ''immediately provide sixty days notice to existing House employees affected'' by the Committee resolution of December 13, 1995 authorizing the contract to privatize the HPO.

Products, does not. In that case, employees were provided with only seven days actual notice of the date of their layoff and they had no other source of information from which they could learn the date. However, that situation is markedly different from the case here, where the employees were provided with multiple written notices and where the final written notice, coupled with the information readily available to the employees, reasonably assured sixty days actual notice of the employees' termination date. Thus, we affirm the Hearing Officer's conclusion that, in the totality of the circumstances, the employees were provided with adequate notice under the requirements of the CAA and the applicable regulations.

Appellants in Quick also argue on appeal that the Hearing Officer erred in concluding that the distribution of the December 13, 1995 memorandum constituted a reasonable method of delivery, and they contrast the handout of that memorandum with the individualized delivery of the January 22, 1996 termination notice, with signed receipt. This contention is without merit. Section 639.8 of the Board's Regulations allows the use of ''[a]ny reasonable method of delivery'' and terms signed receipts ''optional.'' Under the circumstances here, we agree with the Hearing Officer's conclusion that distributing a memorandum at the meetings of the employees was a reasonable method of effecting delivery to these employees.

This is not a case in which the employer failed to provide notice or provided notice intended to evade the purposes of the notice requirements of the CAA. See Department of Labor Preamble to the WARN Act Regulations, 54 Fed. Reg. 16042, 16043 (April 20, 1989) (Response to Comments, section 639.1(d) WARN Enforcement). To the contrary. Four separate written notices were provided to employees. Four meetings informing employees of the privatization were held in the space of two days. The Committee itself was cognizant of the need to provide timely notice to the employees. Its resolution of December 13, 1995 directed the CAO to provide sixty days notice to the employees immediately.

Indeed, the House tried in many additional ways, in the spirit of the underlying purposes of the WARN Act, to ease the transition to new employment. The Committee required, as a condition of the contract, that the contractor interview all current House employees for the jobs that were privatized. The Office of the CAO went beyond the suggestions in section 639.7(d) of the Board's regulations for providing transition information useful to the employees. An array of transition and support services were offered, including a job bank, help with job applications, and resume writing, computer training courses, stress management training, and making arrangements for outplacement seminars for the employees. These efforts further belie any suggestion that the CAO was attempting to evade the purposes of the Act.

In sum, the record is clear that the privatization of the HPO was not the type of stealth plant closing which leaves employees adrift and which the Act, and its inclusion in the CAA, were meant to prevent. There was a public debate and a public decision regarding the privatization of House Postal Operations, and employees were advised of these developments as they occurred. In addition to the multiple written notices provided, public employee meetings were held sixty days in advance of any terminations. At these meetings, the process and specific effective date of the privatization were repeatedly announced. In these circumstances, it would elevate form over substance to find that the CAO's written notices of the privatization of the HPO violated the WARN Act, as applied by the CAA. The Board therefore affirms the decisions of the Hearing Officer.

It is so ordered.

Issued, Washington, D.C., July 29, 1997

APPENDIX A

MEMORANDUM

To: Office of Postal Operations Staff.
From: Kay E. Ford, Associate Administrator Human Resources.
Subject: Status of Operations.
Date: December 13, 1995.

As you have been previously informed, on Wednesday, June 14, 1995 the Committee on House Oversight authorized the preparation and issuance of requests for possible (RFP's) to privatize the current House postal delivery operations.

The review of the proposals submitted resulted in Pitney Bowes Management Services being selected as the House vendor for postal delivery operations. The selection of Pitney Bowes Management Services has subsequently been approved by the Committee on House Oversight. As a condition of the selection process, the vendor has agreed to interview all current Postal Operations employees interested in employment with their organization.

To facilitate this process the vendor will distribute applications for employment on Thursday, December 14, 1995. We have been assured that their review/selection process will be completed in January, 1996. The vendor will inform you directly if you are selected for a position in their organization.

The Human Resources' Office of Training, extension 60526, room 219, FHOB, and the Outplacement Resources Center, extension 64068, rooms 170–171, FHOB, are prepared to offer advice and assist with the preparation of applications on an appointment basis.

To make the transition from employment with the U.S. House of Representatives as smooth as possible, an array of support, resources and information will be made available to you. This will include employee assistance programs designed to address the personal, professional and family concerns associated with the transition process as well as employee benefits consultations and briefings.

Throughout this process we encourage each of you to continue to provide the high degree of quality service for which you are known. We are committed to do all we can to assist and work with you throughout this process and will provide additional information to you as it is available.

APPENDIX B

MEMORANDUM

To: Postal Operations Employees.
From: Ben Lusby, Associate Administrator Publications and Distribution.
Date: September 8, 1995.
Re: Status Update.

Many of you have requested an update on the status of the Request For Proposal to outsource Postal Operations. As you know the Committee on House Oversight on June 14, 1995 approved the issuance of a request for proposal. This RFP was publicly advertised on August 7, 1995 and a bidders conference to answer bidder's questions was held on August 27, 1995. Final bids are due to the Office of Procurement and Purchasing by close of business September 15, 1995.

There has been a great deal of interest shown by facilities management companies and we expect some very competitive bids. However, we have structured the requirements of the RFP to ensure that the winning bidder runs the ''world class'' operation that the House desires and deserves. As announced on June 14, 1995, the winning bidder will interview all interested Postal Operations employees for possible employment.

The bids will be analyzed and a final recommendation will be submitted to the Committee on House Oversight by the beginning of November. The new facilities management company is scheduled to begin operations in mid-December. Please let me know if you have additional questions.

APPENDIX C.—COMMITTEE ON HOUSE OVERSIGHT

RESOLUTION.—HOUSE POSTAL CONTRACT

ADOPTED DECEMBER 13, 1995

*Resolved*, that all functions of House Postal Operations shall be terminated as of the close of business on Tuesday, February 13, 1996. The Chief Administrative Officer is hereby authorized to execute the contract with Pitney Bowes Management Services (hereinafter ''Contractor'') as submitted to the Committee on November 7, 1995 as a result of CAO Solicitation 95–R–003 issued in accordance with the Committee Resolution entitled, ''Postal Operations'' adopted on June 14, 1995 by the Committee on House Oversight.

*Resolved further*, that the Committee on House Oversight directs the Chief Administrative Officer to fully cooperate with the Contractor to implement the mandates of the June 14 Resolution by facilitating an orderly transition of operations between the House and the Contractor, and by ensuring that all existing House employees affected by the issuance of the contract shall be given an opportunity to apply for, be interviewed for, and be considered for employment with respect to the contract arising from CAO Solicitation 95–R–003.

*Resolved further*, that the Committee directs the CAO to immediately provide sixty days notice to existing House employees affected by the issuance of the contract arising from CAO Solicitation 95–R–003 and further directs the CAO to fully implement the provisions of the Committee Resolution adopted on June 14, 1995 entitled ''Employee Assistance with respect to existing House employees affected by the issuance of the contract arising from CAO Solicitation 95–R–003.

*Resolved further*, that the Chief Administrative Officer shall report to the Committee, no later than the tenth day of each month, beginning in January 1996 on the status of implementation of the House Postal Contract.

Member Seitz, with whom Chairman Nager joins, concurring in the judgment:[1]

I agree with the majority opinion's conclusion that the Hearing Officer's decision should be affirmed because appellants received notices which, in combination, substantially complied with WARN Act requirements. The path I followed to this conclusion diverges somewhat from that of the majority, and so I briefly describe my reasoning.

The doctrine of substantial compliance considers whether a defendant in technical noncompliance with a statutory requirement has taken action sufficient to meet the purposes of the statutory requirement at issue. *See, e.g., Hickel v. Oil Shale Corp.*, 400 U.S. 48 (1970) (annual work assessment requirements of federal mining laws); *Kent v. United Omaha Life Ins. Co.*, 96 F.3d 803, 807 (6th Cir. 1996) (notice requirements in regulations under the Employee Retirement Income Security Act); *Donato v. Metropolitan Life Ins. Co.*, 19 F.3d 375, 382-83 (7th Cir. 1994) (same); *Straub v. A.P. Green*, 38 F.3d 448, 452-53 (9th Cir. 1994) (service of process requirements under Foreign Service Immunities Act). If federal law has been ''followed sufficiently so as to carry out the intent for which [the law] was adopted,'' a defendant is said to have substantially

[1] Member Hunter also joins in those parts of the concurrence discussing substantial compliance, with the exception of footnote 3.

complied. *Videotronics v. Bend Electronics*, 586 F. Supp. 478, 484 (D. Nev. 1984).

The substantial compliance doctrine is closely related to the de minimis doctrine which refers to a legal violation or harm, ''often but not always trivial, for which the courts do not think a legal remedy should be provided.'' *Hessel v. O'Hearn*, 977 F.2d 299, 304 (7th Cir. 1992) (citations omitted). *See id.* (describing substantial performance and de minimis as ''closely related . . . meliorative doctrines''). As is true of the substantial compliance doctrine, ''[w]hether a particular activity is a de minimis deviation from a prescribed standard must, of course, be determined with reference to the purpose of the standard.'' *Wisconsin Dept. of Revenue v. Wrigley*, 506 U.S. 214, 232 (1992).

Whether the substantial compliance doctrine applies in a particular context is an ordinary question of statutory and regulatory interpretation. In some contexts, courts have concluded that there was no room for application of the doctrine. *See, e.g., United States v. Locke*, 471 U.S. 84, 100-102 (1985) (filing requirements of Federal Land Policy and Management Act); *Bennett v. Kentucky Dept. of Educ.*, 470 U.S. 656, 663-64 (1985) (repayment requirements of Elementary and Secondary Education Act). In other contexts, where the purpose of a federal enactment may be achieved with substantial compliance, courts have permitted the doctrine's application. See, e.g., Hickel v. Oil Shale Corp., 400 U.S. at 100-02; *Kent v. United Omaha Life Ins. Co.*, 96 F.3d at 807; *Donato v. Metropolitan Life Ins. Co.*, 19 F.3d at 382-83; *Straub v. A.P. Green*, 38 F.3d at, 452-53. Unlike the substantial compliance doctrine, the de minimis doctrine is generally *presumed* to apply to violations of federal statutes, absent some contrary indication from Congress. *See, e.g., Wisconsin Dept. of Revenue v. Wrigley*, 506 U.S. at 231.

The first question to consider in this case is whether either the substantial compliance doctrine or the de minimis doctrine *applies* to the WARN Act requirements incorporated by reference in the CAA, specifically the written notice requirements of section 205(a) of the CAA and section 639.7(d) of the Board's Interim WARN Act regulations. I conclude that the WARN Act's written notice requirements are best interpreted to allow application of the substantial compliance and *de minimis* doctrines in cases in which technically deficient written notice has been provided.

As explained in the majority opinion, the purpose of the WARN Act is ''to provide workers with adequate advance notification of an employment loss.'' *Supra* at 6. A WARN Act notice ''provides workers and their families some transition time to adjust to the prospective loss of employment, to seek and obtain alternative jobs and, if necessary, to enter skill training or retraining that will allow these workers to successfully compete in the job market.'' Notice of Adoption of Regulations and Submission for Approval and Issuance of Interim Regulations, 142 Cong. Rec. S271–72 (daily ed. Jan. 22, 1996). The regulations require that an employing office provide employees with *written* notice of several pieces of information, most importantly the date on which that employee will no longer have a job. The superiority of a fully compliant written notice delivered individually is that a writing is best calculated both to convey the information that must be conveyed *and* to demonstrate beyond question (and litigation) that the required notice has been provided. But there are circumstances in which an omission from the writing will not defeat the purpose of the WARN Act's legal requirements. That purpose is to provide employees with actual notice *that* they are going to lose their job and when that job loss will take place. Because the purpose of the written notice requirement can be fulfilled *when* employing offices actually provide affected employees with timely notice of impending job loss, I conclude that both the substantial compliance and the *de minimis* doctrines are applicable to the WARN Act requirements at issue.[2]

That brings me to the difficult question of whether the employing office here, the Office of the CAO of the House of Representatives, substantially complied with section 205(a) of the CAA, and section 639.7(d) of the Board's implementing regulations (or, put differently, whether its violation of the legal requirements was *de minimis*). When a plant or office closing is to occur, the most important questions for employees and their families are whether they are going to lose their jobs and, if so, when. And, although the CAO provided employees with a timely written notice on December 13, 1995, it failed to put the most critical information—the date of certain job loss—in that notice. There is no apparent reason for the omission, and the CAO has provided no explanation that makes sense in light of its admitted knowledge of the relevant date. Indeed, the Committee on House Oversight of the House of Representatives appears to have instructed the CAO immediately to provide employees with the required notice of all relevant information, including the date. *See supra* at 3.[3]

The Hearing Officer concluded, however, that the CAO had substantially complied with the notice requirements and that the omissions were ''minor''—*i.e., de minimis.* He first determined that the CAO had provided a written notice, that the written notice contained two of the four items as to which notice is required, and that, as to a third item (bumping rights), the requirement was inapplicable and no notice was required. With respect to the fourth item—notice of the date of job loss—the Hearing Officer determined that the written notice failed to provide that vital date.

The Hearing Officer nonetheless determined that the CAO substantially complied with the written notice requirement or, put differently, that any violation was minor or *de minimis.* He found that: (a) The CAO provided, on September 8, 1995, a written notice indicating that employees would lose their jobs due to privatization and stating that privatization was likely to occur by mid-December 1995; (b) The CAO provided on December 13, 1995, a written notice again indicating that employees would lose their jobs due to privatization and that such job loss would occur some time after January 1996; and (c) The CAO convened meetings on December 13, and 14, 1996, at least one of which each employee attended, where the CAO stated repeatedly that February 14, 1996 was the date on which the private contractor would take over House Post Office operations. As to appellant Schmelzer, the Hearing Officer expressly found actual notice of the date of job loss. And as to the appellants in *Quick*, the Hearing Officer determined that actual notice of the date of job loss was repeatedly given at meetings on December 14, 1996 and that each appellant was present at one of those meetings. The fairest reading of these findings is that the CAO actually provided the *Quick* appellants with notice of the date of job loss. These factual findings are fully supported on the record.

Based on these factual determinations, the Hearing Officer concluded that the CAO substantially complied with the WARN Act's legal requirements, and that, in these unique circumstances, the omissions from the written notice were *de minimis.* I believe that his legal conclusion, based on the facts, is correct. I therefore concur in the judgment affirming his decision and order.

[2] Federal courts to have considered the question have implicitly agreed with this conclusion. *See supra* at 10 (citing and describing cases).

[3] Had the CAO done as the Committee instructed, the CAO would likely have avoided this extended litigation. But I disagree with the majority opinion's suggestion that the actions of the Committee or certain other actions of the CAO on behalf of employees are relevant to the question of the CAO's substantial compliance. The latter actions, *i.e.,* the employee assistance proffered by the CAO, might have been relevant to the CAO's defense of good faith.

## RECONCILIATION SPENDING BILL AND TAX CUT BILL

Mrs. BOXER. Mr. President, I voted for both the spending and tax reform bill because I believe they will strengthen our economy and provide needed tax relief for millions of Americans.

First and foremost, these bills balance the budget by 2002. This is a remarkable testament to the extraordinary health of our Nation's economy.

In 1992, just 6 years ago, the budget deficit stood at $290 billion. Thanks in large part to the economic plan passed in 1993, the budget deficit will decline this year to $45 billion.

In 1992, unemployment stood at 7.5 nationwide and 9.6 percent in California. Robust economic growth spurred by responsible economic policy has caused unemployment to decline to historically low levels.

This bill cuts taxes for millions of American working families. In fact, this bill contains the largest tax decrease in 16 years. These tax cuts are directed where they are needed most, at middle class working families, promoting savings for retirement and education. The $500 per child tax credit will give parents an extra helping hand in providing for their children. These are tax cuts that I wholeheartedly support.

I am especially pleased that this bill makes important investments in health care for uninsured children. I believe the $24 billion provided in the bill for children's health care may be the most significant health policy achievement in over 30 years.

I am very pleased that the conferees on the Tax Reconciliation bill rejected an unwise proposal to raise the Medicare eligibility age. I believe that retaining health coverage for our senior citizens must remain a national priority.

Two important priorities of mine were also included in the final reconciliation bill. My 401(k) Protection Act, which helps secure the retirement savings of millions of Americans will soon become law. Finally, I am pleased that the conferees included my Computer Donation Incentive Act, which provides tax benefits for the donation of computers to elementary and high schools.

I am proud to support this bill and am confident that it will add to the strong economic growth our Nation has enjoyed over the past six years.

PENDING NOMINATION OF MARGARET MORROW TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA

Mr. LEAHY. Mr. President, as we adjourn until September, I once again note my dissatisfaction with the lack of progress we have made in confirming the many fine women and men whom President Clinton has nominated to the federal judiciary.

This year the Senate has confirmed only 9 federal judges before the August recess during a period of 108 vacancies. Thus, when the Senate returns in September it will remain on the snail-like pace that the Republican leadership has maintained throughout the year of confirming one judge per month. Meanwhile, vacancies have continued to mount and the delays in filling vacancies continue to grow.

It is discouraging to once again have to call attention to the fact that some 40 nominees are pending before the Judiciary Committee—nominees who have yet to be accorded even a hearing during this Congress. Many of these nominations have been pending since the very first day of this session, having been re-nominated by the President after having been held up during last year's partisan stall. Thus, the Committee has not yet worked through the backlog of nominees left pending from last year. Several of those pending before the Committee had hearings or were reported favorably last Congress but have been passed over so far this year, while the vacancies for which they were nominated as long as 27 months ago persist.

Those who delay or prevent the filling of these vacancies must understand that they are delaying or preventing the administration of justice. We can pass all the crime bills we want, but you cannot lock up criminals if you do not have judges. The mounting backlogs of civil and criminal cases in the emergency districts, in particular, are growing taller by the day.

I was delighted when the Senate moved promptly on the nomination of Alan Gold before the July recess, but his is the only nomination that has been confirmed promptly all year. There is no excuse for the Senate's delay in considering the nominations of such outstanding individuals as Professor William A. Fletcher, Judge James A. Beaty, Jr., Judge Richard A. Paez, Ms. M. Margaret McKeown, Ms. Ann L. Aiken, and Ms. Susan Oki Mollway, to name just a few of the outstanding nominees who have all been pending all year without so much as a hearing. Professor Fletcher and Ms. Mollway had both been reported last year. Judge Paez and Ms. Aiken had hearings last year but have been passed over so far this year.

We continue to fall farther and farther behind the pace established by the 104th Congress. By this time two years ago, Senator HATCH had held seven confirmation hearings involving 31 judicial nominees, and the Senate had proceeded to confirm 26 federal judges. The record this year does not compare: Four hearings instead of seven; nine judges confirmed instead of 26.

I recently received a copy of a letter dated July 14, 1997, sent to President Clinton and the Republican Leader of the Senate by seven presidents of national legal associations. These presidents note the ''looming crisis in the Nation brought on by the extraordinary number of vacant federal judicial positions'' and the ''injustice of this situation for all of society.'' They point to ''[d]angerously crowded dockets, suspended civil case dockets, burgeoning criminal caseloads, overburdened judges, and chronically undermanned courts'' as circumstances that ''undermine our democracy and respect for the supremacy of law.'' I agree with these distinguished leaders that we must without further delay ''devote the time and resources necessary to expedite the selection and confirmation process for federal judicial nominees.'' The President is doing his part, having sent us 14 nominations in the last two days. The Senate should start doing its part.

I want to turn briefly to the long pending nomination of Ms. Margaret Morrow to be a District Court Judge for the Central District of California. Mr. Morrow was first nominated on May 9, 1996—not this year but May of 1966. She had a confirmation hearing and was unanimously reported to the Senate by the Judiciary Committee in June 1996. Her nomination was, thus, first pending before the Senate more than a year ago. This was one of a number of nominations caught in the election year shutdown.

She was renominated on the first day of this session. She had her second confirmation hearing in March. She was then held off the Judiciary agenda while she underwent rounds of written questions. When she was finally considered on June 12, she was again favorably reported with the support of Chairman HATCH. She has been left pending on the Senate Executive Calendar for more than six weeks and has been passed over, again, as the Senate is about to adjourn for a month-long recess.

This is an outstanding nominee to the District Court. She is exceptionally well qualified to be a Federal judge. I have heard no one contend to the contrary. She has been put through the proverbial ringer—including at one point being asked her private views, how she voted, on 160 California initiatives over the last 10 years.

She has told the Committee:

I support citizen initiatives, and believe they are an important aspect of our democratic form of government. The 1988 article was not meant to be critical of citizen initiatives, but of the lack of procedures designed to eliminate confusion and make clear and relevant information about initiatives available to voters. I was trying to suggest ways in which the initiative process could be strengthened, by communicating more information to the electorate about the substance of initiative measures and by eliminating drafting errors that form the basis for a legal challenge. I believe it important for citizens to obtain as much information as possible respecting any matter on which they cast a vote.

I believe the citizen initiative process is clearly constitutional. I also recognize and support the doctrine established in case law that initiative measures are presumptively constitutional, and strongly agree with [the] statement that initiative measures that are constitutional and properly drafted should not be overturned or enjoined by the courts.

In passing on the legality of initiative measures, judges should apply the law, not substitute their personal opinion of matters of public policy for the opinion of the electorate.

My goal was not to eliminate the need for initiatives. Rather, I was proposing ways to strengthen the initiative process by making it more efficient and less costly, so that it could better serve the purpose for which it was originally intended. At the same time, I was suggesting measures to increase the Legislature's willingness to address issues of concern to ordinary citizens regardless of the views of special interests or campaign contributors. I do not believe these goals are inconsistent.

. . . . The reasons that led Governor JOHNSON to create the initiative process in 1911 are still valid today, and it remains an important aspect of our democratic form of government.

Does this sound like someone who is anti-democratic? No objective evaluation of the record can yield the conclusion that she is anti-initiative. No fair reading of her statements suggests a basis for any such assertion.

She has been forced to respond to questions about particular judicial decisions. I find this especially ironic is light of the Judiciary Committee's questionnaire in which we ask whether anyone involved in the process of selecting the nominee discussed with her ''any specific case, legal issue or question in a manner that could reasonably be interpreted as asking how you would rule on such case, issue, or question.'' We try to ensure that the Administration imposes no litmus tests and does not ask about specific cases—and then some on the Judiciary Committee turn around and do exactly that.

The Committee insisted that she do a homework project on Robert Bork's writings and on the jurisprudence of original intent. Is that what is required to be confirmed to the District Court in this Congress?

With respect to the issue of ''judicial activism,'' we have the nominee's views. She told the Committee: ''The specific role of a trial judge is to apply the law as enacted by Congress and interpreted by the Supreme Court and Courts of Appeals. His or her role is not to 'make law.''' She also noted: ''Given the restrictions of the case and controversy requirement, and the limited nature of legal remedies available, the courts are ill equipped to resolve the broad problems facing our society, and should not undertake to do so. That is the job of the legislative and executive branches in our constitutional structure.''

I am appalled at the treatment that Margaret Morrow has received before the Senate and have spoken about her on the Senate floor on many occasions. It is long past time for the Senate to take up this nomination, debate it and vote on it. In my view, the Senate should certainly have done so before adjourning for a month-long recess.

Margaret Morrow was the first woman President of the California Bar Association and also a past president of the Los Angeles County Bar Association. She is an exceptionally well-qualified nominee who is currently a partner at Arnold & Porter and has practiced for 23 years. She is supported by Los Angeles' Republican Mayor Richard Riordan and by Robert Bonner, the former head of DEA under a Republican Administration. Representative JAMES ROGAN attended her second confirmation hearing to endorse her.

Margaret Morrow has devoted her career to the law, to getting women involved in the practice of law and to making lawyers more responsive and responsible. Her good works should not be punished but commended. Her public service ought not be grounds for delay. She does not deserve this treatment. This type of treatment will drive good people away from government service.

The President of the Woman Lawyers Association of Los Angeles, the President of the Women's Legal Defense Fund, the President of the Los Angeles County Bar Association, the President of the National Conference of Women's Bar Association and other distinguished attorneys from the Los Angeles area have all written the Senate in support of the nomination of Margaret Morrow. They write that: ''Margaret Morrow is widely respected by attorneys, judges and community leaders of both parties'' and she ''is exactly the kind of person who should be appointed to such a position and held up as an example to young women across the country.'' I could not agree more.

Mr. President, the Senate should move expeditiously to confirm Margaret Morrow.

I ask unanimous consent that the two letters to which I have referred be printed in the RECORD at the conclusion of my statement.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

JULY 14, 1997.

Hon. WILLIAM J. CLINTON,
*The President,*
*The White House, Washington, DC.*

Hon TRENT LOTT,
*The Majority Leader,*
*U.S. Senate, Washington, DC.*

DEAR MR. PRESIDENT AND MR. MAJORITY LEADER: Among the constitutional responsibilities entrusted to the President and the Senate, none is more essential to the foundation upon which our democracy rests than the appointment of justices and judges to serve at all levels of the federal bench. Notwithstanding the intensely political nature of the process, historically this critical duty has been carried out with bipartisan cooperation to ensure a highly qualified and effective federal judiciary.

There is a looming crisis in the Nation brought on by the extraordinary number of vacant federal judicial positions and the resulting problems that are associated with delayed judicial appointments. There are 102 pending judicial vacancies, or 11 percent of the number of authorized judicial positions. A record 24 of these Article III positions have been vacant for more than 18 months. Those courts hardest hit are among the Nation's busiest, for example, the Ninth Circuit Court of Appeals has 9 of its 28 positions vacant. At the district court level, six States have unusually high vacancy rates: 10 in California, 8 in Pennsylvania, 6 in New York, 5 in Illinois, and 4 each in Texas and Louisiana.

The injustice of this situation for all of society cannot be overstated. Dangerously crowded dockets, suspended civil case dockets, burgeoning criminal caseloads, overburdened judges, and chronically undermanned courts undermine our democracy and respect for the supremacy of law.

We, the undersigned representatives of national legal organizations, call upon the President and the Senate to devote the time and resources necessary to expedite the selection and confirmation process for federal judicial nominees. We respectfully urge all participants in the process to move quickly to resolve the issues that have resulted in these numerous and longstanding vacancies in order to preserve the integrity of our justice system.

N. LEE COOPER,
*President, American Bar Association.*
U. LAWRENCE BOZE,
*President, National Bar Association.*
HUGO CHAVAINO,
*President, Hispanic National Bar Association.*
PAUL CHAN,
*President, National Asian Pacific American Bar Association.*
HOWARD TWIGGS,
*President, Association of Trial Lawyers of America.*
SALLY LEE FOLEY,
*President, National Association of Women Lawyers.*
JULIET GEE,
*President, National Conference of Women's Bar Associations.*

WOMEN LAWYERS ASSOCIATION OF LOS ANGELES,
*Los Angeles, CA, May 13, 1997.*

Hon. PATRICK LEAHY,
*Russell Senate Office Building,*
*Washington, DC.*

DEAR SENATOR LEAHY: We write to you to protest the treatment which one of President Clinton's nominees for the Federal District Court is receiving. We refer to Margaret Morrow, who has been nominated for the United States District Court in the Central District of California. As of today we have been waiting a full year for her confirmation.

Margaret Morrow has qualifications which set her apart as one uniquely qualified to be a federal judge. She is a magna cum laude graduate of Bryn Mawr College and a cum laude graduate of Harvard Law School. She has a 23-year career in private practice with an emphasis in complicated commercial and corporate litigation with extensive experience in federal courts. She has received a long list of awards and recognition as a top lawyer in her field, her community and her state.

Margaret Morrow is widely respected by attorneys, judges and community leaders of both parties. Many have written to you. Because of her outstanding qualifications and broad support, it is difficult to understand why she has not moved expeditiously through the confirmation process.

Margaret Morrow is a leader and role model among women lawyers in California. She was the second woman President of 25,000 member Los Angeles Bar Association and the first woman President of the largest mandatory bar association in the country, the 150,000 member State Bar of California.

Margaret Morrow is exactly the kind of person who should be appointed to such a position and held up as an example to young women across our country. Instead she is subjected to multiple hearings and seemingly endless rounds of questions, apparently without good reason.

We urge you to send a message that exceptionally well qualified women who are community leaders should apply to the U.S. Senate for federal judgships. We urge you to move her nomination to the Senate floor and to act quickly to confirm it.

NANCY HOFFMEIER ZAMORA, Esq.,
*President, Women Lawyers Association of Los Angeles.*
JUDITH LICHTMAN, Esq.,
*President, Women's Legal Defense Fund.*
KAREN NOBUMOTO, Esq.,
*President, John M. Langston Bar Association.*
STEVEN NISSEN, Esq.,
*Executive Director & General Counsel, Public Counsel.*
SHELDON H. SLOAN, Esq.,
*President, Los Angeles County Bar Association.*
ABBY LEIBMAN, Esq.,
*Executive Director, California Women's Law Center.*
JULIET GEE, Esq.,
*President, National Conference of Women's Bar Associations.*

## S. 625—THE AUTO CHOICE REFORM ACT OF 1997

Mr. NICKLES. Mr. President, I am happy to join as a cosponsor to S. 625, the Auto Choice Reform Act of 1997. This bill enjoys wide bipartisan support for the choice that it offers every American when choosing car insurance. Under this bill, families and individuals will be able to exchange the right to bring certain lawsuits for a substantial savings on their automobile insurance. This bill will allow consumers the right to purchase a low-cost policy that will cover medical bills and lost wages but not pain and suffering damage claims. Those policies will also give the purchasers immunity from pain and suffering claims against them. The current State liability systems will remain intact as a choice for individuals who would prefer the freedom

to sue and be sued for pain and suffering damages.

American taxpayers stand to save a total of $45 billion nationwide. This savings would go directly in the pocket of every insured person at no cost to the taxpayers. The Joint Economic Committee has projected that the auto choice option will save Oklahomans $420 million in automobile insurance premiums and will put $186 back into the accounts of every person with a car. This is the equivalent of an instant tax cut for every insured person.

The New York Times stated that with this bill: ''Everyone would win—except the lawyers'' that live off of the current liability system. In fact, trial lawyers take in an estimated $17 billion a year from auto accident cases. USA Today reported that 35 cents of every auto premium dollar goes to lawyers.

This bill has been labeled a ''model of federalism.'' Each State has the right to opt out of auto choice if the State insurance commissioner finds that residents fail to receive at least a 30 percent reduction in bodily injury premiums. The State legislature retains the right to simply pass a law against this option and keep its current auto liability system.

There is mounting evidence that the current auto liability insurance system has become prey to rampant fraud and abuse, which is constantly fed by inflated pain and suffering claims. FBI Director Louis Freeh estimated that the average household pays an additional $200 in unnecessary premiums just to cover these fraudulent schemes. This hits low income families particularly hard since about one-third of a family's disposable income is consumed by car insurance costs. Auto choice will put that money back into the pockets of taxpayers to help pay for needed expenses, providing long-overdue relief to all who choose this option.

I am happy to cosponsor this bill and hope that every American with car insurance will be given the opportunity to make this choice to provide long over due relief to all who choose this option. It is time for all drivers to begin to enjoy lower auto premiums and to allow government to spend its resources outside of the courtroom.

## JOHN F. KENNEDY CENTER PARKING IMPROVEMENT ACT OF 1997

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 85, S. 797.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 797) to amend the John F. Kennedy Center Act to authorize the design and construction of additions to the parking garage and certain site improvements, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. CHAFEE. Mr. President, I am delighted that the Senate is considering S. 797, the John F. Kennedy Center Parking Improvement Act. This legislation, which will help to address parking and security problems at the Kennedy Center, was approved unanimously by the Committee On Environment and Public Works on June 5 of this year. I want to recognize the bill's cosponsors, Senators LOTT, BAUCUS, STEVENS, and KENNEDY, for their valuable assistance.

Briefly, Mr. President, this legislation provides authority to the Kennedy Center Board of Trustees to construct an addition to the existing parking garage at each of the north and south ends of the Center. Importantly, the Congressional Budget Office, in their letter of June 11, 1997, wrote that there will be not Federal costs associated with the enactment of S. 797.

The garage project will be financed through the issuance of industrial revenue bonds which will be repaid entirely with revenue derived from operation of the expanded garage. The bill includes a provision explicitly prohibiting the use of appropriated funds for the purpose of constructing or financing the parking garage expansion.

Also included in the bill is authorization for the Center to take action on site modifications for the improvement of security on the site. The Center has conducted a complete security review, and among the recommendations are changes to the main approach and plaza. This legislation allows the Center to pursue site modifications for the protection of the building and its visitors. The authorization of appropriations for this work, the site improvements and modifications, is provided by existing law.

Consistent with the John F. Kennedy Center Act Amendments of 1994, the Center's plans for the garage expansion and other, related site improvements will be developed in close consultation with the Department of the Interior.

Mr. President, the legislation reflects the commitment of the Kennedy Center Trustees to continually improve this Presidential monument for the benefit of the public—in a manner that is financially responsible. I want to again thank Senators LOTT, BAUCUS, STEVENS, and KENNEDY, for their help in drafting this bill. I urge the Senate to adopt this legislation.

## AMENDMENT NOS. 1048 THROUGH 1053, EN BLOC

Mr. DOMENICI. Mr. President, the following requests have been agreed to on both sides. There are six amendments at the desk that have been cleared on both sides. They are as follows:

Nos. 1048, 1049, 1050, 1051, 1052, and 1053.

I ask unanimous consent that these amendments be agreed to en bloc, the bill be considered read a third time and passed, and that any statements relating to the amendments or bill appear at this point in the RECORD. I finally ask consent that the motion to reconsider the above action be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 1048, 1049, 1050, 1051, 1052, and 1053) agreed to en bloc are as follows:

AMENDMENT NO. 1048

Page 3, line 7, strike ''or''.

Page 3, line 12, strike the first period and all that follows and insert ''; or''.

Page 3, after line 12, insert the following:

''(C) any project to acquire large screen format equipment for an interpretive theater or to produce an interpretive film that the Board specifically designates will be financed using sources other than appropriated funds.''.

Page 4, strike lines 9 through 14.

Page 4, line 15, strike ''5'' and insert ''4''.

AMENDMENT NO. 1049

(Purpose: To provide for the design, construction, furnishing, and equipping of a Center for Performing Arts within the complex known as the New Mexico Hispanic Cultural Center, and for other purposes)

At the appropriate place, insert the following:

**SEC. ___. CONSTRUCTION OF A CENTER FOR PERFORMING ARTS.**

(a) FINDINGS.—Congress makes the following findings:

(1) The United States has an enriched legacy of Hispanic influence in politics, government, economic development, and cultural expression.

(2) The Hispanic culture in what is now the United States can be traced to 1528 when a Spanish expedition from Cuba to Florida was shipwrecked on the Texas coast.

(3) The Hispanic culture in New Mexico can be traced to 1539 when a Spanish Franciscan Friar, Marcos de Niza, and his guide, Estevanico, traveled into present day New Mexico in search of the fabled city of Cibola and made contact with the people of Zuni.

(4) The Hispanic influence in New Mexico is particularly dominant and a part of daily living for all the citizens of New Mexico, who are a diverse composite of racial, ethnic, and cultural peoples. Don Juan de Oarte and the first New Mexican families established the first capital in the United States, San Juan de los Cabelleros, in July of 1598.

(5) Based on the 1990 census, there are approximately 650,000 Hispanics in New Mexico, the majority having roots reaching back ten or more generations.

(6) There are an additional 200,000 Hispanics living outside of New Mexico with roots in New Mexico.

(7) The New Mexico Hispanic Cultural Center is a living tribute to the Hispanic experience and will provide all citizens of New Mexico, the Southwestern United States, the entire United States, and around the world, an opportunity to learn about, partake in, and enjoy the unique Hispanic culture, and the New Mexico Hispanic Cultural Center will assure that this 400-year old culture is preserved.

(8) The New Mexico Hispanic Cultural Center will teach, showcase, and share all facets of Hispanic culture, including literature, performing arts, visual arts, culinary arts, and language arts.

(9) The New Mexico Hispanic Cultural Center will promote a better cross-cultural understanding of the Hispanic culture and the

contributions of individuals to the society in which we all live.

(10) In 1993, the legislature and Governor of New Mexico created the Hispanic Cultural Division as a division within the Office of Cultural Affairs. One of the principal responsibilities of the Hispanic Cultural Division is to oversee the planning, construction, and operation of the New Mexico Hispanic Cultural Center.

(11) The mission of the New Mexico Hispanic Cultural Center is to create a greater appreciation and understanding of Hispanic culture.

(12) The New Mexico Hispanic Cultural Center will serve as a local, regional, national, and international site for the study and advancement of Hispanic culture, expressing both the rich history and the forward-looking aspirations of Hispanics throughout the world.

(13) The New Mexico Hispanic Cultural Center will be a Hispanic arts and humanities showcase to display the works of national and international artists, and to provide a venue for educators, scholars, artists, children, elders, and the general public.

(14) The New Mexico Hispanic Cultural Center will provide a venue for presenting the historic and contemporary representations and achievements of the Hispanic culture.

(15) The New Mexico Hispanic Cultural Center will sponsor arts and humanities programs, including programs related to visual arts of all forms (including drama, dance, and traditional and contemporary music), research, literary arts, genealogy, oral history, publications, and special events such as, fiestas, culinary arts demonstrations, film video productions, storytelling presentations and education programs.

(16) Phase I of the New Mexico Hispanic Cultural Center complex is scheduled to be completed by August of 1998 and is planned to consist of an art gallery with exhibition space and a museum, administrative offices, a restaurant, a ballroom, a gift shop, an amphitheater, a research and literary arts center, and other components.

(17) Phase II of the New Mexico Hispanic Cultural Center complex is planned to include a performing arts center (containing a 700-seat theater, a stage house, and a 300-seat film/video theater), a 150-seat black box theater, an art studio building, a culinary arts building, and a research and literary arts building.

(18) It is appropriate for the Federal Government to share in the cost of constructing the New Mexico Hispanic Cultural Center because Congress recognizes that the New Mexico Hispanic Cultural Center has the potential to be a premier facility for performing arts and a national repository for Hispanic arts and culture.

(b) DEFINITIONS.—In this section:

(1) CENTER.—The term ''Center'' means the Center for Performing Arts, within the complex known as the New Mexico Hispanic Cultural Center, which Center for the Performing Arts is a central facility in Phase II of the New Mexico Hispanic Cultural Center complex.

(2) HISPANIC CULTURAL DIVISION.—The term ''Hispanic Cultural Division'' means the Hispanic Cultural Division of the Office of Cultural Affairs of the State of New Mexico.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(c) CONSTRUCTION OF CENTER.—The Secretary shall award a grant to New Mexico to pay for the Federal share of the costs of the design, construction, furnishing, and equipping of the Center for Performing Arts that will be located at a site to be determined by the Hispanic Cultural Division, within the complex known as the New Mexico Hispanic Cultural Center.

(d) GRANT REQUIREMENTS.—

(1) IN GENERAL.—In order to receive a grant awarded under subsection (c), New Mexico, acting through the Director of the Hispanic Cultural Division—

(A) shall submit to the Secretary, within 30 days of the date of enactment of this section, a copy of the New Mexico Hispanic Cultural Center Program document dated January 1996; and

(B) shall exercise due diligence to expeditiously execute, in a period not to exceed 90 days after the date of enactment of this section, the memorandum of understanding under paragraph (2) recognizing that time is of the essence for the construction of the Center because 1998 marks the 400th anniversary of the first permanent Spanish settlement in New Mexico.

(2) MEMORANDUM OF UNDERSTANDING.—The memorandum of understanding described in paragraph (1) shall provide—

(A) the date of completion of the construction of the Center;

(B) that Antoine Predock, an internationally recognized architect, shall be the supervising architect for the construction of the Center;

(C) that the Director of the Hispanic Cultural Division shall award the contract for architectural engineering and design services in accordance with the New Mexico Procurement Code; and

(D) that the contract for the construction of the Center—

(i) shall be awarded pursuant to a competitive bidding process; and

(ii) shall be awarded not later than 3 months after the solicitation for bids for the construction of the Center.

(3) FEDERAL SHARE.—The Federal share of the costs described in subsection (c) shall be 50 percent.

(4) NON-FEDERAL SHARE.—The non-Federal share of the costs described in subsection (c) shall be in cash or in kind fairly evaluated, including plant, equipment, or services. The non-Federal share shall include any contribution received by New Mexico for the design, construction, furnishing, or equipping of Phase I or Phase II of the New Mexico Hispanic Cultural Center complex prior to the date of enactment of this section. The non-Federal share of the costs described in subsection (c) shall include the following:

(A) $16,410,000 that was appropriated by the New Mexico legislature since January 1, 1993, for the planning, property acquisition, design, construction, furnishing, and equipping of the New Mexico Hispanic Cultural Center complex.

(B) $116,000 that was appropriated by the New Mexico legislature for fiscal year 1995 for the startup and operating expenses of the New Mexico Hispanic Cultural Center.

(C) $226,000 that was appropriated by the New Mexico legislature for fiscal year 1996 for the startup and operating expenses of the New Mexico Hispanic Cultural Center.

(D) $442,000 that was appropriated by the New Mexico legislature for fiscal year 1997 for the startup and operating expenses of the New Mexico Hispanic Cultural Center.

(E) $551,000 that was appropriated by the New Mexico legislature for fiscal year 1998 for the startup and operating expenses of the New Mexico Hispanic Cultural Center.

(F) A 10.9-acre lot with a historic 22,000 square foot building donated by the Mayor and City Council of Albuquerque, New Mexico, to New Mexico for the New Mexico Hispanic Cultural Center.

(G) 12 acres of ''Bosque'' land adjacent to the New Mexico Hispanic Cultural Center complex for use by the New Mexico Hispanic Cultural Center.

(H) The $30,000 donation by the Sandia National Laboratories and Lockheed Martin Corporation to support the New Mexico Hispanic Cultural Center and the program activities of the New Mexico Hispanic Cultural Center.

(e) USE OF FUNDS FOR DESIGN, CONSTRUCTION, FURNISHING, AND EQUIPMENT.—The funds received under a grant awarded under subsection (c) shall be used only for the design, construction, management and inspection, furnishing, and equipment of the Center.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section a total of $17,800,000 for fiscal year 1998 and succeeding fiscal years. Funds appropriated pursuant to the authority of the preceding sentence shall remain available until expended.

Mr. DOMENICI. Mr. President, tonight we are passing the Kennedy Center garage bill with an amendment authorizing the the Hispanic Cultural Center's Performing Arts Center. On a day when we pass the monumental spending bill and a tax cut I am pleased that we are also authorizing this cultural center.

We could not be here today passing the cultural center bill if it were not that Senator CHAFEE was willing to be so helpful to me. He let me attach this amendment to the urgently needed legislation for the Kennedy Center. I want to thank Senator CHAFEE for his tremendous cooperation and legislative skills. I want to thank him for helping accomplish a very important project for the State of New Mexico. Next year marks the 400th anniversary of the first Hispanic settlement in the United States and it happened to be located in New Mexico.

Many celebrations are planned around the State, but this cultural center will be a permanent addition and showcase.

Mr. President, I am eager to present my colleagues with a wonderful plan to honor and perpetuate the Hispanic culture of America. Next year, 1998, is the 400th anniversary of Hispanic presence in New Mexico. In 1598, Juan de Oñate conquered New Mexico and founded the second city of the United States, San Gabriel de los Españoles. This was the first permanent Spanish settlement in New Mexico. From New Mexico, Juan de Oñate traveled across the desert to California where he founded San Francisco in 1605.

On the occasion of the 400th anniversary of Spanish presence, New Mexico will be beginning a new era of Spanish pride and cooperation with other cultures. In New Mexico, we are very proud of our cultural relations between the Indian, Spanish, and Anglo people. It is now time to pay special tribute to the Spanish people of New Mexico and the United States.

In preparing for the 400th anniversary celebrations, the State of New Mexico has invested over $17.7 million toward the establishment of phase I of the New Mexico Hispanic Cultural Center. In addition, the city of Albuquerque has donated 10.9 acres and an historic 22,000 square foot building.

Twelve acres of ''bosque'' land near the Rio Grande have also been donated by the Middle Rio Grande Conservancy District. Private contributions are also helping to meet the Hispanic Cultural Center goals.

I am asking my colleagues to match these New Mexico contributions with the funds to build the critical Hispanic Performing Arts Center at an estimated cost of $17.8 million. I believe the people of New Mexico have done a stellar job in committing their own resources for an art gallery, museum, restaurant, ballroom, amphitheater, research center, literary arts center, and other supportive components.

To showcase the Hispanic culture in New Mexico for all Americans, the Hispanic Performing Arts Center is a vital component. Phase II plans include a 700-seat theater, a stage house, a 300-seat film/video center, a 150-seat black box theater, an art studio building, a culinary art building, and a research and literary arts building. The estimated cost of all phase II components is $26 million. By agreeing to fund the Hispanic Performing Arts Center, Congress will make a significant contribution toward the phase II plan.

Not counting the land contributions, phase I and phase II design, construction, equipping, and furnishing is estimated to cost slightly more than $40 million. Major infrastructure components are included in both phases. These include an aqueduct, acequia, and pond from the Barelas Drain; parking; a plaza and courtyard, and landscaping.

Phase I is now near the bidding stage. The Hispanic Performing Arts and Film Arts—the three theaters—are estimated to cost $17.8 million, with necessary equipment—construction: $15.9 million; fixed equipment: $1.9 million. The remaining components of phase II are estimated to cost $8 million.

This multifaceted Hispanic Cultural Center is designed to showcase, share, archive, preserve, and enhance the rich Hispanic culture for local, regional, and national audiences. It is designed to be a tourist attraction as well as a great source of local pride.

The Hispanic Cultural Center will be the southernmost facility on a cultural corridor that includes the Rio Grande Nature Center, the Albuquerque Aquarium, Botanical Gardens, and the Rio Grande Zoo. Historic Old Town Albuquerque is at the center of this cultural corridor.

Antoine Predock of Albuquerque and Pedro Marquez of Santa Fe are the project architects. They have emphasized the inclusion of New Mexico architectural features such as adobe construction—like the existing historic building used as the administrative center—courtyards, portals, cottonwoods for shading, and the irrigation ditches known in New Mexico as ''acequias''. The site is at the corner of Fourth Street and Bridge Boulevard in Southwest Albuquerque.

Once built, the Hispanic Cultural Center will employ over 100 people. Tourism dollars are expected to increase in this part of Albuquerque, and new ancillary businesses are anticipated to complement and enhance the attractions in the historic Barelas Neighborhood of Albuquerque.

The many forms of art, culture, research, performing arts, culinary arts, literature, and other activities are expected to add important cultural connections to the roots of the local and State Hispanic people. Completion of the Hispanic Performing Arts Center will be the major facility needed to showcase live and filmed Spanish cultural events. A whole new industry of preserving, showcasing, and enhancing pride in Spanish cultural roots is a vital anticipated benefit of this New Mexico-based Hispanic institution.

Visitors are expected from California, New York, Florida, Texas, Wisconsin, Minnesota, and other States with large Hispanic populations. The New Mexico Hispanic Cultural Center and its active Hispanic Performing Arts Center are expected to become nationally known treasures of living Hispanic culture in America.

I believe that the Federal funding for the Hispanic Performing Arts Center will be just the perfect contribution to a budding national treasure in its critical formative stages. I urge my colleagues to support the funding for the Hispanic Performing Arts Center in Albuquerque, NM, in honor of the 400th anniversary of Spanish culture, and in hopes of seeing the preservation and enhancement of this culture flourish into its 500th year.

AMENDMENT NO. 1049

Mr. BINGAMAN. Mr. President, I rise to speak about a subject that is very important to the people of New Mexico; not just the Hispanic community, but people of all ethnicities that value the rich, historical traditions of our State. Today, I am proud to be co-sponsoring with my colleague from New Mexico, Senator DOMENICI, legislation that will finally make possible the creation of an Hispanic Cultural Center. The Center has been in the planning stages for many years and, when completed, will be the product of very hard work by numerous people in New Mexico. I would like to thank Senator DOMENICI for his work and Senator KENNEDY, Senator CHAFEE, Senator BOND, and Senator GORTON for their efforts to make this Center a reality, and I congratulate them.

Mr. President, the United States and New Mexico have enjoyed an enriched legacy of Hispanic tradition and culture. New Mexico especially can be proud of strong Hispanic participation in politics, government, economic development, and cultural expression. Hispanic presence in the United States reaches far back to 1528, and in New Mexico to 1539. Hispanic influence on our society can be seen all across our state, in our architecture, food, clothing, literature, music, family tradition, and even the names of many of our towns and cities; names like ''Alamogordo,'' ''Raton,'' ''Quemado,'' and ''Penasco.'' Since the time that Don Juan de Onate first settled New Mexico in 1598, Hispanic families have been a part of the New Mexico landscape. Today, we can look forward to a Center that will showcase this rich tradition, and it will serve as a living tribute to the Hispanic experience for all citizens of our Nation.

Regrettably, our Federal Government has done too little to recognize that the Hispanic community has been present on this continent for 500 years and has been an integral fiber in our Nation's fabric. The Hispanic culture has made and continues to make many valuable contributions to our society as a whole. Hispanics make up the fastest growing minority group in this country. The Census Bureau reports that Hispanics presently account for 11 percent of our Nation's population, and by 2025 it will have accounted for 44 percent of the national population growth.

Certainly, the Center will promote a better understanding of Hispanics, and, more importantly, will serve as a showcase of how New Mexico is a place where many cultures, including Anglo, Native American, and African American, live and work together in magnificent harmony. This legislation is an important first step by our Federal Government to long-delayed recognition.

There is still much work to be done to make this Center a reality, however. Construction on the facility will begin, and the location of the Center is presently being determined. I strongly encourage all concerned parties to work together to ensure that the spirit of the Center remains intact.

Again, Mr. President, on behalf of the people of New Mexico, I thank the distinguished Senators.

AMENDMENT NO. 1050

(Purpose: To provide for the design, construction, furnishing and equipping of a Center for Historically Black Heritage within Florida A&M University)

At the appropriate place insert the following:

**SEC. . CONSTRUCTION OF A CENTER FOR REGIONAL BLACK CULTURE.**

(a) FINDINGS.—Congress makes the following findings:

(1) Currently 500,000 historically important artifacts of the Civil War era and the early days of the civil rights movement in the Southeast region of the United States are housed at Florida A&M University.

(2) To preserve this large repertory of African-American history and artifacts it is appropriate that the Federal Government share in the cost of construction of this national repository for culture and history.

(b) DEFINITION.—In this section:

(1) CENTER.—The term ''Center'' relates to the Center for Historically Black Heritage at Florida A&M University.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Interior Acting through the director of the Park Service.

(c) CONSTRUCTION OF CENTER.—

(1) IN GENERAL.—The Secretary shall award a grant to the State of Florida to pay for the

Federal share of the costs design construction, furnishing and equipping the Center at Florida A&M University.

(d) GRANT REQUIREMENTS.—

(1) IN GENERAL.—In order to receive the grant awarded under subsection (c), Florida A&M University, shall submit to the Secretary a proposal.

(2) FEDERAL SHARE.—The Federal share of the costs described in subsection (c) shall be 50 percent.

(e) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated to the Secretary of Interior to carry out this section a total of $3,800,000 fiscal year 1998 and preceding fiscal years. Funds appropriated pursuant to the authority of the preceding sentence should remain available until expended.

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AMENDMENT NO. 1051

(Purpose: To provide for the relocation and expansion of the Haffenreffer Museum of Anthropology at Brown University in Providence, Rhode Island)

At the end of the bill, add the following:

**SEC. . RELOCATION AND EXPANSION OF HAFFENREFFER MUSEUM OF ANTHROPOLOGY.**

(a) DEFINITIONS.—In this section:

(1) MUSEUM.—The term ''Museum'' means the Haffenreffer Museum of Anthropology at Brown University in Providence, Rhode Island.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) RELOCATION AND EXPANSION OF MUSEUM.—The Secretary shall make a grant to Brown University in Providence, Rhode Island, to pay the Federal share of the costs associated with the relocation and expansion of the Museum, including the design, construction, renovation, restoration, furnishing, and equipping of the Museum.

(c) GRANT REQUIREMENTS.—

(1) IN GENERAL.—To receive a grant under subsection (b), the Museum shall submit to the Secretary a proposal for the use of the grant.

(2) FEDERAL SHARE.—The Federal share of the costs described in subsection (b) shall be 20 percent.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $3,000,000, to remain available until expended.

Mr. CHAFEE. Mr. President, I am pleased that the Senate is today considering legislation to assist in the relocation and expansion of the Haffenreffer Museum of Anthropology at Brown University in Providence, RI.

In 1955, the family of Rudolf F. Haffenreffer bequeathed to Brown University the museum he had founded in Bristol, RI. The museum includes more than 100,000 objects from native peoples of the Americas, Africa, Asia, and the Pacific.

This is a teaching museum owned and supported by Brown University. It has a number of world-class holdings that attract scholars from all over the globe, and has been described by the American Association of Museums as a ''superb medium- to small-sized facility with outstanding collections, excellent exhibits, and a superb program of public education and outreach.''

While maintaining objects from around the world, the Haffenreffer Museum exhibits extensive archaeological materials from New England that are used to interpret prehistoric and historical cultural developments in Rhode Island and surrounding States. This legislation authorizes $3 million to preserve these culturally important collections and to provide expanded exhibition space that will make them more accessible to schoolchildren, scholars, students, and other visitors.

In 1995, Brown University acquired from the Resolution Trust Corporation [RTC] the historic Old Stone Bank building, built in 1854, along with the 1928 Federal-style residence known as the Benoni-Cooke House, both located in downtown Providence. The RTC took over both properties when the Old Stone Bank failed in 1993.

Prior to Brown's purchase of these sites, it was unclear how or whether they would be put to use. The funds authorized by this bill will contribute a modest portion of the estimated $15 million Brown University will spend to relocate the Haffenreffer Museum from Bristol, RI, to the bank building and the Benoni-Cooke House, both of which are listed on the National Register of Historic Places.

Mr. President, this is indeed a win-win project being carried out by Brown University. We will renovate, preserve and make fine use of two historic architectural landmarks—while providing greater access to an extraordinary tool for cultural and historical education. This is a fine example of the type of assistance our Federal Government can provide to local communities to preserve and make available for future generations the significant developments of our past.

Mr. President, I encourage the support of colleagues.

AMENDMENT NO. 1052

At the end of the bill add the following new section:

**SEC. XXX. ENVIRONMENTAL RESEARCH CENTER.**

(a) IN GENERAL.—The Secretary of the Interior shall award a grant to Juniata College for the construction of an environmental research facilities and structures at Raystown Lake, Pennsylvania.

(b) COORDINATION.—As a condition to receipt of the grant authorized in subsection (a), officials of Juniata College shall coordinate with the Baltimore District of the Army Corps of Engineers.

(c) APPROPRIATIONS AUTHORIZED.—There is authorized to be appropriated $5,000,000 to carry out this section.

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AMENDMENT NO. 1053

At the end of the bill add the following new section:

**SEC. XXX. FORT PECK DAM INTERPRETIVE CENTER.**

(a) IN GENERAL.—The Secretary of the Interior shall design, construct, furnish and equip an historical cultural and paleontological interpretive center and museum to be located at Fort Peck Dam, Montana.

(b) COORDINATION.—In carrying out subsection (a) the Secretary of the Interior shall coordinate with officials of the Bureau of Reclamation, Bureau of Land Management, U.S. Army Corps of Engineers and the Fort Peck Dam Interpretive Center and Museum.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section a total of $10,000,000. Funds appropriated are available until expended.

The bill (S. 797), as amended, was deemed read a third time, and passed, as follows:

S. 797

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''John F. Kennedy Center Parking Improvement Act of 1997''.

**SEC. 2. PARKING GARAGE ADDITIONS AND SITE IMPROVEMENTS.**

Section 3 of the John F. Kennedy Center Act (20 U.S.C. 76i) is amended—

(1) by striking the section heading and all that follows through ''The Board'' and inserting the following:

**''SEC. 3. JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS.**

''(a) IN GENERAL.—The Board''; and

(2) by adding at the end the following:

''(b) PARKING GARAGE ADDITIONS AND SITE IMPROVEMENTS.—

''(1) IN GENERAL.—Substantially in accordance with the plan entitled 'Site Master Plan—Drawing Number 1997–2 April 29, 1997,' and map number NCR 844/82571, the Board may design and construct—

''(A) an addition to the parking garage at each of the north and south ends of the John F. Kennedy Center for the Performing Arts; and

''(B) site improvements and modifications.

''(2) AVAILABILITY.—The plan shall be on file and available for public inspection in the office of the Secretary of the Center.

''(3) LIMITATION ON USE OF APPROPRIATED FUNDS.—No appropriated funds may be used to pay the costs (including the repayment of obligations incurred to finance costs) of—

''(A) the design and construction of an addition to the parking garage authorized under paragraph (1)(A);

''(B) the design and construction of site improvements and modifications authorized under paragraph (1)(B) that the Board specifically designates will be financed using sources other than appropriated funds; or

''(C) any project to acquire large screen format equipment for an interpretive theater or to produce an interpretive film that the Board specifically designates will be financed using sources other than appropriated funds.''.

**SEC. 3. PEDESTRIAN AND VEHICULAR ACCESS.**

(a) DUTIES OF THE BOARD.—Section 4(a)(1) of the John F. Kennedy Center Act (20 U.S.C. 76j(a)(1)) is amended—

(1) by striking ''and'' at the end of subparagraph (G);

(2) by striking the period at the end of subparagraph (H) and inserting ''; and''; and

(3) by adding at the end the following:

''(I) ensure that safe and convenient access to the site of the John F. Kennedy Center for the Performing Arts is provided for pedestrians and vehicles.''.

(b) POWERS OF THE BOARD.—Section 5 of such Act (20 U.S.C. 76k) is amended by adding at the end the following:

''(g) PEDESTRIAN AND VEHICULAR ACCESS.—Subject to approval of the Secretary of the Interior under section 4(a)(2)(F), the Board shall develop plans and carry out projects to improve pedestrian and vehicular access to the John F. Kennedy Center for the Performing Arts.''.

**SEC. 4. DEFINITION OF BUILDING AND SITE.**

Section 13 of the John F. Kennedy Center Act (20 U.S.C. 76s) and section 9(3) of the Act of October 24, 1951 (40 U.S.C. 193v), are each amended by inserting after ''numbered 844/82563, and dated April 20, 1994'' the following: ''(as amended by the map entitled 'Transfer of John F. Kennedy Center for the Performing Arts', numbered 844/82563a and dated May 22, 1997)''.

**SEC. 5. CONSTRUCTION OF A CENTER FOR PERFORMING ARTS.**

(a) FINDINGS.—Congress makes the following findings:

(1) The United States has an enriched legacy of Hispanic influence in politics, government, economic development, and cultural expression.

(2) The Hispanic culture in what is now the United States can be traced to 1528 when a Spanish expedition from Cuba to Florida was shipwrecked on the Texas coast.

(3) The Hispanic culture in New Mexico can be traced to 1539 when a Spanish Franciscan Friar, Marcos de Niza, and his guide, Estevanico, traveled into present day New Mexico in search of the fabled city of Cibola and made contact with the people of Zuni.

(4) The Hispanic influence in New Mexico is particularly dominant and a part of daily living for all the citizens of New Mexico, who are a diverse composite of racial, ethnic, and cultural peoples. Don Juan de Oarte and the first New Mexican families established the first capital in the United States, San Juan de los Cabelleros, in July of 1598.

(5) Based on the 1990 census, there are approximately 650,000 Hispanics in New Mexico, the majority having roots reaching back ten or more generations.

(6) There are an additional 200,000 Hispanics living outside of New Mexico with roots in New Mexico.

(7) The New Mexico Hispanic Cultural Center is a living tribute to the Hispanic experience and will provide all citizens of New Mexico, the Southwestern United States, the entire United States, and around the world, an opportunity to learn about, partake in, and enjoy the unique Hispanic culture, and the New Mexico Hispanic Cultural Center will assure that this 400-year old culture is preserved.

(8) The New Mexico Hispanic Cultural Center will teach, showcase, and share all facets of Hispanic culture, including literature, performing arts, visual arts, culinary arts, and language arts.

(9) The New Mexico Hispanic Cultural Center will promote a better cross-cultural understanding of the Hispanic culture and the contributions of individuals to the society in which we all live.

(10) In 1993, the legislature and Governor of New Mexico created the Hispanic Cultural Division as a division within the Office of Cultural Affairs. One of the principal responsibilities of the Hispanic Cultural Division is to oversee the planning, construction, and operation of the New Mexico Hispanic Cultural Center.

(11) The mission of the New Mexico Hispanic Cultural Center is to create a greater appreciation and understanding of Hispanic culture.

(12) The New Mexico Hispanic Cultural Center will serve as a local, regional, national, and international site for the study and advancement of Hispanic culture, expressing both the rich history and the forward-looking aspirations of Hispanics throughout the world.

(13) The New Mexico Hispanic Cultural Center will be a Hispanic arts and humanities showcase to display the works of national and international artists, and to provide a venue for educators, scholars, artists, children, elders, and the general public.

(14) The New Mexico Hispanic Cultural Center will provide a venue for presenting the historic and contemporary representations and achievements of the Hispanic culture.

(15) The New Mexico Hispanic Cultural Center will sponsor arts and humanities programs, including programs related to visual arts of all forms (including drama, dance, and traditional and contemporary music), research, literary arts, genealogy, oral history, publications, and special events such as, fiestas, culinary arts demonstrations, film video productions, storytelling presentations and education programs.

(16) Phase I of the New Mexico Hispanic Cultural Center complex is scheduled to be completed by August of 1998 and is planned to consist of an art gallery with exhibition space and a museum, administrative offices, a restaurant, a ballroom, a gift shop, an amphitheater, a research and literary arts center, and other components.

(17) Phase II of the New Mexico Hispanic Cultural Center complex is planned to include a performing arts center (containing a 700-seat theater, a stage house, and a 300-seat film/video theater), a 150-seat black box theater, an art studio building, a culinary arts building, and a research and literary arts building.

(18) It is appropriate for the Federal Government to share in the cost of constructing the New Mexico Hispanic Cultural Center because Congress recognizes that the New Mexico Hispanic Cultural Center has the potential to be a premier facility for performing arts and a national repository for Hispanic arts and culture.

(b) DEFINITIONS.—In this section:

(1) CENTER.—The term ''Center'' means the Center for Performing Arts, within the complex known as the New Mexico Hispanic Cultural Center, which Center for the Performing Arts is a central facility in Phase II of the New Mexico Hispanic Cultural Center complex.

(2) HISPANIC CULTURAL DIVISION.—The term ''Hispanic Cultural Division'' means the Hispanic Cultural Division of the Office of Cultural Affairs of the State of New Mexico.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(c) CONSTRUCTION OF CENTER.—The Secretary shall award a grant to New Mexico to pay for the Federal share of the costs of the design, construction, furnishing, and equipping of the Center for Performing Arts that will be located at a site to be determined by the Hispanic Cultural Division, within the complex known as the New Mexico Hispanic Cultural Center.

(d) GRANT REQUIREMENTS.—

(1) IN GENERAL.—In order to receive a grant awarded under subsection (c), New Mexico, acting through the Director of the Hispanic Cultural Division—

(A) shall submit to the Secretary, within 30 days of the date of enactment of this section, a copy of the New Mexico Hispanic Cultural Center Program document dated January 1996; and

(B) shall exercise due diligence to expeditiously execute, in a period not to exceed 90 days after the date of enactment of this section, the memorandum of understanding under paragraph (2) recognizing that time is of the essence for the construction of the Center because 1998 marks the 400th anniversary of the first permanent Spanish settlement in New Mexico.

(2) MEMORANDUM OF UNDERSTANDING.—The memorandum of understanding described in paragraph (1) shall provide—

(A) the date of completion of the construction of the Center;

(B) that Antoine Predock, an internationally recognized architect, shall be the supervising architect for the construction of the Center;

(C) that the Director of the Hispanic Cultural Division shall award the contract for architectural engineering and design services in accordance with the New Mexico Procurement Code; and

(D) that the contract for the construction of the Center—

(i) shall be awarded pursuant to a competitive bidding process; and

(ii) shall be awarded not later than 3 months after the solicitation for bids for the construction of the Center.

(3) FEDERAL SHARE.—The Federal share of the costs described in subsection (c) shall be 50 percent.

(4) NON-FEDERAL SHARE.—The non-Federal share of the costs described in subsection (c) shall be in cash or in kind fairly evaluated, including plant, equipment, or services. The non-Federal share shall include any contribution received by New Mexico for the design, construction, furnishing, or equipping of Phase I or Phase II of the New Mexico Hispanic Cultural Center complex prior to the date of enactment of this section. The non-Federal share of the costs described in subsection (c) shall include the following:

(A) $16,410,000 that was appropriated by the New Mexico legislature since January 1, 1993, for the planning, property acquisition, design, construction, furnishing, and equipping of the New Mexico Hispanic Cultural Center complex.

(B) $116,000 that was appropriated by the New Mexico legislature for fiscal year 1995 for the startup and operating expenses of the New Mexico Hispanic Cultural Center.

(C) $226,000 that was appropriated by the New Mexico legislature for fiscal year 1996 for the startup and operating expenses of the New Mexico Hispanic Cultural Center.

(D) $442,000 that was appropriated by the New Mexico legislature for fiscal year 1997 for the startup and operating expenses of the New Mexico Hispanic Cultural Center.

(E) $551,000 that was appropriated by the New Mexico legislature for fiscal year 1998 for the startup and operating expenses of the New Mexico Hispanic Cultural Center.

(F) A 10.9-acre lot with a historic 22,000 square foot building donated by the Mayor and City Council of Albuquerque, New Mexico, to New Mexico for the New Mexico Hispanic Cultural Center.

(G) 12 acres of ''Bosque'' land adjacent to the New Mexico Hispanic Cultural Center complex for use by the New Mexico Hispanic Cultural Center.

(H) The $30,000 donation by the Sandia National Laboratories and Lockheed Martin Corporation to support the New Mexico Hispanic Cultural Center and the program activities of the New Mexico Hispanic Cultural Center.

(e) USE OF FUNDS FOR DESIGN, CONSTRUCTION, FURNISHING, AND EQUIPMENT.—The funds received under a grant awarded under subsection (c) shall be used only for the design, construction, management and inspection, furnishing, and equipment of the Center.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section a total of $17,800,000 for fiscal year 1998 and succeeding fiscal years. Funds appropriated pursuant to the authority of the preceding sentence shall remain available until expended.

**SEC. 6. CONSTRUCTION OF A CENTER FOR REGIONAL BLACK CULTURE.**

(a) FINDINGS.—Congress makes the following findings:

(1) Currently 500,000 historically important artifacts of the Civil War era and the early days of the civil rights movement in the Southeast region of the United States are housed at Florida A&M University.

(2) To preserve this large repertory of African-American history and artifacts it is appropriate that the Federal Government share in the cost of construction of this national repository for culture and history.

(b) DEFINITION.—In this section:

(1) CENTER.—The term ''Center'' relates to the Center for Historically Black Heritage at Florida A&M University.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior Acting through the director of the Park Service.

(c) CONSTRUCTION OF CENTER.—The Secretary shall award a grant to the State of Florida to pay for the Federal share of the costs design construction, furnishing and equipping the Center at Florida A&M University.

(d) GRANT REQUIREMENTS.—

(1) IN GENERAL.—In order to receive the grant awarded under subsection (c), Florida A&M University, shall submit to the Secretary a proposal.

(2) FEDERAL SHARE.—The Federal share of the costs described in subsection (c) shall be 50 percent.

(e) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated to the Secretary of the Interior to carry out this section a total of $3,800,000 for fiscal year 1998 and preceding fiscal years. Funds appropriated pursuant to the authority of the preceding sentence should remain available until expended.

**SEC. 7. RELOCATION AND EXPANSION OF HAFFENREFFER MUSEUM OF ANTHROPOLOGY.**

(a) DEFINITIONS.—In this section:

(1) MUSEUM.—The term ''Museum'' means the Haffenreffer Museum of Anthropology at Brown University in Providence, Rhode Island.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) RELOCATION AND EXPANSION OF MUSEUM.—The Secretary shall make a grant to Brown University in Providence, Rhode Island, to pay the Federal share of the costs associated with the relocation and expansion of the Museum, including the design, construction, renovation, restoration, furnishing, and equipping of the Museum.

(c) GRANT REQUIREMENTS.—

(1) IN GENERAL.—To receive a grant under subsection (b), the Museum shall submit to the Secretary a proposal for the use of the grant.

(2) FEDERAL SHARE.—The Federal share of the costs described in subsection (b) shall be 20 percent.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $3,000,000, to remain available until expended.

**SEC. 8. ENVIRONMENTAL RESEARCH CENTER.**

(a) IN GENERAL.—The Secretary of the Interior shall award a grant to Juniata College for the construction of environmental research facilities and structures at Raystown Lake, Pennsylvania.

(b) COORDINATION.—As a condition to receipt of the grant authorized in subsection (a), officials of Juniata College shall coordinate with the Baltimore District of the Army Corps of Engineers.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $5,000,000 to carry out this section.

**SEC. 9. FORT PECK DAM INTERPRETIVE CENTER.**

(a) IN GENERAL.—The Secretary of the Interior shall design, construct, furnish and equip an historical, cultural and paleontological interpretive center and museum to be located at Fort Peck Dam, Montana.

(b) COORDINATION.—In carrying out subsection (a), the Secretary of the Interior shall coordinate with officials of the Bureau of Reclamation, Bureau of Land Management, United States Army Corps of Engineers and the Fort Peck Dam Interpretive Center and Museum.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section a total of $10,000,000. Funds appropriated are available until expended.

Mr. DOMENICI. I thank the Senate.

I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

(The remarks of Mr. KERRY pertaining to the introduction of S. 1124 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

## LIFTING OF TRAVEL BAN TO LEBANON

Mr. ABRAHAM. Mr. President, I rise to speak today with respect to a development which has occurred by an act of omission rather than commission on the part of the Secretary of State.

As the President I am sure is aware, for approximately 10 years American citizens have had passport restrictions which have prevented them from being able to travel to the country of Lebanon. The way the process works is, at various intervals—most recently at 6-month intervals—this ''travel ban,'' as it is referred to, was back before the Secretary of State for renewal, and it has continued to be renewed for additional 6-month periods for quite some time. The 6-month period expired as of the 1st of August. This Secretary of State decided, after much consideration of the merits of these issues, not to extend the travel ban further.

I want to rise today—I have had a chance to be on the floor in morning business prior to this—to both commend the Secretary of State for her difficult situation and to applaud her courage in making this decision. This was a very controversial issue. It is one that both this Secretary of State and her predecessors have had to look at hard and long because, obviously, there is a need to balance, on the one hand, the security interests of United States citizens who might travel to Lebanon and, on the other hand, both humanitarian as well as economic considerations of those who had a desire to make such trips.

I believe the Secretary of State made the right decision. For a variety of reasons, Americans need to be able to travel to Lebanon. They need to be able to travel there freely. First and foremost is the need for families to be able to reunify. Many American citizens of Lebanese ancestry have close relatives who are in Lebanon and are not able to visit them because of this travel ban.

For economic reasons it makes sense for the travel ban to have been lifted. The fact is that Lebanon is in a very successful rebuilding period, and that rebuilding process has included many foreign nations who have come to Lebanon's aid and many foreign companies who have taken advantage of the opportunities to rebuild the phone and utilities and other systems of the country. American companies have not been able to do that. Mr. President, they have missed an opportunity to create jobs and to create opportunities here at home as well as in Lebanon. By lifting the ban that opportunity is now available again.

Another argument for lifting the ban which I found very compelling was the argument that it is important from the standpoint of the Middle East stability for the United States to be engaged in Lebanon. In recent years, Lebanon has found itself occupied by numerous foreign forces. During that timeframe, it has not been able to look to the West, and particularly to the United States, for help and assistance in the process of moving the direction of economic growth and democratic principles.

Having a greater United States role in Lebanon, I think, will make it easier for Lebanon to be become once again a fully independent and fully sovereign nation and to see all foreign forces leave that country. So for all of these reasons, the lifting of this ban comes at the right time. It is the right choice.

Arrayed against these, as I said, are units with security concerns. The fact is that there are many countries in the world today that are no safer to travel to than Lebanon but in which case there is no travel ban. There are travel advisories. The Secretary of State will be issuing that type of travel advisory to make sure that Americans understand the risks involved. Indeed, I would like to put on the record my own strong observation that there are risks to Americans to travel there. It is not yet the case that one can go to Lebanon without being aware of the mind flow, of the potential problems that might exist there, particularly in certain parts of the country, for American travelers.

At the same time we have numerous countries in the world where such risks exist. I believe a travel advisory is the proper way in which to address it rather than an outright travel ban.

For all of these reasons, Mr. President, as I say, I think the Secretary of State has done the right thing. I hope that Americans will once again get to know Lebanon and that the relationship that once existed between our countries, which was a very close and warm relationship, can be built once more.

I would also like to conclude by congratulating the Lebanese people. This travel ban being lifted is in no small measure a result of the efforts on the part of the Lebanese Government and the Lebanese people to address the security concerns which we have had. A variety of actions have already taken place. A number of further commitments were made in the process of discussing the renewal of this ban. I believe that Prime Minister Hariri and the Government of Lebanon are prepared to live up to those commitments

fully and completely. As they do, I believe they will ensure that the decision made by the Secretary of State was the right one.

So for these reasons, I would like to commend once again the Secretary of State. I would like to commend the Lebanese Government and the people of Lebanon. I would like to urge our colleagues to keep their eye on Lebanon and to look for other ways by which we can build a strong relationship.

I yield the floor.

Mr. WYDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

## PERMITTING INDIVIDUALS WITH DISABILITIES FULL ACCESS TO THE SENATE FLOOR

Mr. WYDEN. Mr. President, I take the floor tonight to discuss a resolution that I have introduced with Senator WARNER to permit individuals with disabilities full access to the floor of the U.S. Senate. I believe that this resolution will be approved later tonight and has been reviewed by both the majority and the minority. I anticipate that it will be incorporated into the final business of the U.S. Senate during the wrap-up session before the session formally concludes.

Mr. President, this resolution that I offer tonight will close the book on discrimination against individuals with disabilities on the floor of the U.S. Senate.

Earlier this year, after a visually impaired professional on my staff was barred from bringing her guide dog onto the floor, the Senate adopted a resolution providing for temporary case-by-case entry to the floor for those professionals with disabilities. This was a good step—an important step. But it still left some room for discrimination.

The resolution that will be considered by the Senate tonight will ensure that as a matter of formal Senate rule there is no discrimination permitted against individuals with disabilities. There will no longer be a double standard in the U.S. Senate. Senate staffers with disabilities who have the privilege of the Senate floor will be permitted to bring onto the Senate floor supporting aids and services such as canes, service dogs, interpreters, or assistive devices.

This is an important day for the Senate, for people with disabilities, and for our whole country because it makes clear that the U.S. Congress ought to follow the laws that apply to everyone else in our country.

I especially want, Mr. President, to recognize the hard work of the chairman of the Rules Committee, Senator JOHN WARNER, in moving this resolution forward. As every Member of this body knows, he has an enormous workload. He was extremely gracious to me in working to develop this resolution and gain bipartisan support for it.

I would also like to pay a special tribute to the senior Senator from the State of West Virginia, Senator BYRD, whose expert knowledge of the Senate rules was of enormous benefit in drafting this new resolution.

As a relatively new Senator, I have great esteem for the constant care which Senator BYRD uses to guard the traditions and prerogatives of this body. I am of the view that every U.S. Senator owes a debt of gratitude to the Senator from West Virginia for his constant vigilance with respect to ensuring the rights of all on the Senate floor.

Mr. President, this is an important resolution. It is justice long overdue. Earlier this year, a congressional fellow in my office was denied access to the Senate floor because she uses a guide dog. That guide dog is a working dog; a guide dog that serves as the eyes for a visually impaired person. The people of this country were offended, and they sent a message that this type of discrimination is unacceptable to them.

My office, like many others in the U.S. Senate, were inundated with calls, mail, and e-mail.

There was one letter I received that recounted a bit of history that I would like to briefly share.

The letter that was sent to me told a story about the Senate in the 1930s when there were some Members who disapproved of a guide dog coming onto the Senate floor. The individual then who needed the assistance of the guide dog was Senator Schall of Minnesota. The letter described the Senator's first entry into the Chamber with his guide dog and how the other Senators rose, one by one, and then in large numbers applauded him. The Senate galleries followed suit until the whole Senate was just one gigantic standing ovation.

The letter goes on to say that Senator Schall stopped by his seat, turned and listened to the ovation from all around him and was touched as the ovation continued and continued. Waving to the crowd, the Senator took his seat and commanded his guide dog, Lux, to lie down. The guide dog then curled up under the Senator's desk, tucking his body so it would not be in the way of any Senator who passed by. The May 22, 1933, issue of the CONGRESSIONAL RECORD documents how strongly the American public reacted to the news of the death of Senator Schall's guide dog. The guide dog died after being separated a few days from the Senator when he thought it would be inappropriate to take the dog with him to attend the funeral of another Senator. Senator Schall said then:

> Mr. President, since the death of my good dog, Lux, last March, the mails of this and other countries have brought me hundreds of letters of regret. So many expressions of interest have gladdened and surprised me.

It seems to me that the action that the Senate will take shortly makes it clear that we have not forgotten how important it is to stand for the principle of equal justice in this Chamber. What we do each day is set an example, and here particularly an important example, because as a result of the Americans With Disabilities Act, the Congressional Accountability Act, and other statutes, we make clear that the laws of the United States are going to apply in this Chamber.

As a result of this resolution, and particularly the extremely helpful work that Senator WARNER and Senator BYRD have done, it is going to be possible to have a formal Senate rule that ensures that discrimination against individuals with disabilities is not going to be tolerated on this floor.

This rule takes the generally accepted definition of an individual with a disability, defined as one who has a physical or mental impairment that substantially limits one or more of the major life activities of such individual, and says it is not possible to discriminate against that individual in this Chamber.

In closing, Mr. President, I want to observe that there are 49 million Americans with a disabilities. Under the law, they are guaranteed the same rights as all other Americans in terms of access to jobs, insurance, transportation, and telecommunications technology. They are not guaranteed special treatment. They are guaranteed just equal access. That is what this resolution is all about, equal access.

Finally, Mr. President, many lessons have been learned from this experience. I believe that the Senate and our country are more aware and sensitive to the many issues facing individuals with disabilities. We have seen that rules can and should be updated to meet the changing needs of our society. I believe that the Senate and our country as a whole are better off as a result of the consideration of this resolution and the strong bipartisan support that has developed here and in our country.

Mr. President, I think this is an important day for the Senate, a good day for the Senate, because it was a day which ensures that our country is a bit more fair, a bit more sensitive to the needs of those with disabilities. I commend my colleagues on both sides of the aisle who have helped me so much, particularly Senators WARNER and BYRD.

Mr. President, I ask unanimous consent that Senators BYRD, REID, KERRY, CHAFEE, AKAKA, KENNEDY, MURRAY, BINGAMAN, MURKOWSKI, FEINGOLD, HATCH, DURBIN, and HARKIN be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

## CONDEMNATION OF JERUSALEM BOMBING

Mr. REED. Mr. President, yesterday, while thousands of innocent men, women and children shopped in Mahane Yehuda market in Jerusalem, the peace of that sunny afternoon was shattered when two bombs filled with screws and nails detonated. Fifteen people were killed, close to 200 persons

were injured. Later that day, the Israeli Cabinet voted to break off all contact with the Palestinian Authority, jeopardizing hopes that had soared just days ago when Israelis and Palestinians had agreed to resume peace talks for the first time since March.

I have always been a strong supporter of the peace process, and there is no doubt in anyone's mind that this is a complicated issue and peace will only be secured after prolonged negotiations and compromises on both sides. No one expects it to be easy.

However, the first step simply must be to end the violence. Terrorist acts such as yesterday's bombing simply cannot be tolerated. There is no reason, no excuse, no possible justification for killing innocent civilians shopping in a street market. It is an act of terrorism, nothing more, nothing less.

Peace cannot be secured until the citizens of the Middle East are certain that they are safe. They will not feel safe until they trust each other, and they will not trust each other until their actions match their words and deeds. Yasser Arafat said he condemns these terrorists. He said it is an act against the peace process. Yet, it is more than likely that a known terrorist group detonated those bombs in the market. These terrorist groups have never had to account for their violent deeds.

The Palestinian Authority must match its words of condemnation with acts. It must take tangible steps to increase security activity and security cooperation. It must be committed to bringing those who are responsible for this unconscionable act of terrorism to justice. Only when it is clear that these acts of terrorism will no longer be tolerated will they cease. Only when they cease can we take another step down that very long road to peace.

I extend my condolences to the families of those who were killed. It is my sincere hope it is the last time that the people of Israel and the people of Palestine will endure the suffering and fear that terrorist acts bring.

I yield back the remainder of my time.

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Illinois.

## RESULTS OF BALANCING THE BUDGET

Ms. MOSELEY-BRAUN. Mr. President, for the first time since 1969, Congress has balanced the budget. This is not just a victory for Congress. This is a victory for the American people.

I am reminded of a term that is used in science known as ''vector addition.'' Simply stated, it says that you subtract forces working against one another and you add forces working with one another.

While I am not here to talk about science or math, my point is that we diminish our collective energy when we work against each other, but we expand our ability to help everyone when we work together. When we set aside our differences, we are stronger as a Nation and stronger as a people. By working together we move forward, and that means that everybody wins.

Mr. President, the American people are winners today because of the spirit of cooperation that went into the tax relief and spending reduction bills, a credit to the leadership of President Clinton, the leadership of the chairman and ranking member of the Finance Committee, Senator ROTH and Senator MOYNIHAN, and the leadership of the Budget Committee chairman, Senator DOMENICI, and the ranking Democrat, Senator LAUTENBERG.

Mr. President, this is people-oriented legislation, and I am pleased to be able to say that it is bipartisan legislation that invests in our children and in their futures. It achieves fiscal responsibility while at the same time it is socially fair. It improves health for children and health care for the elderly. It takes at least a small step toward rebuilding our Nation's crumbling schools and a much larger step toward expanding opportunities for our children to attend college.

Most importantly of all, we are providing real tax relief for American families. For the first years of the new century we will see in this country a balanced budget again for the first time in a generation.

This legislative victory did not come without sacrifice. The foundation for today's achievement was had in 1993 when Congress, by the narrowest of margins, enacted the highly successful 1993 deficit reduction legislation that has already brought down the Federal deficit from over $280 billion to about $65 billion, or perhaps even lower, this year. Critics argued at the time that the bill would plunge our country into a recession, that it would stoke inflation, and that it would throw hundreds of thousands of people out of work. A few of our senatorial colleagues who supported the bill later lost their elections because of that support. Those Members of Congress chose statesmanship over politics, and today I think it is important to pay tribute to their foresight.

The legislation that we passed this afternoon builds on what we achieved in 1993. It nonetheless represents an enormous accomplishment, one in which every American can take justifiable pride. The United States is once again leading the way to get its fiscal house in order while investing in families, children and in students and in economic growth. By contrast, in Europe, deficits in many countries as a percentage of their gross domestic product are triple what ours is—and even higher—and they have no solution in sight. Again, I believe that we have shown the way to achieve fiscal responsibility and social fairness to the world.

As a Member of the Senate Finance Committee, I am pleased that this bill reflects a number of my own particular priorities. First, it helps young college graduates to repay their student loans by making the interest deductible once again. We all know how rapidly college costs have increased and are increasing and how many students start out their working careers with huge debts, huge student loan debts. The proposal that Senator GRASSLEY and I worked together on will make a real difference to graduates as they begin to start their careers to begin their families. They will be able to deduct the interest on those loans. And given sometimes that those loans can be as high as $80,000 and $90,000, this should be a benefit to young people who want to pursue education.

Second, the bill contains a version of the proposal that I offered in the Senate that will help to create new economic activity and new jobs at thousands of abandoned commercial and industrial sites around the world.

There are all too many brownfields sites in our communities, property that had formerly been used by business but which has become environmentally contaminated or polluted and then abandoned. By allowing those individuals who want to clean up these polluted areas and use them for new businesses, by allowing them to expense the costs of their environmental cleanup rather than having to capitalize those costs over a period of years, it will create a brand new incentive to bring this property back into the economic mainstream, to create jobs, to clean up the environment, and to restore and reclaim parts of our communities all over this country.

Third, this bill will begin to address a problem that I have spoken about on the Senate floor many times, the crumbling schools around America. Since I have come to the Senate, I have worked to forge a new Federal and State and local partnership to rebuild our Nation's crumbling schools. We cannot lift our kids up if our schools are falling down, and I am pleased that this bill has taken the first step in that direction by creating a new category of no-interest bonds for communities to use to rehabilitate their schools. High poverty districts will be able to issue $800,000 in bonds to repair their schools, to pay for new teacher training, new equipment purchases and other expenses needed for revitalization of educational facilities.

I think that is an important step in the right direction. It does not begin to do all that we need to do, but it is a step.

The bill also increases the small issuer arbitrage rebate exemption for certain school facilities funds which provide some small rural schools with relief from the burdensome administrative requirements associated with the issuance of tax-free bonds. And so everybody wins under this approach to rebuilding the schools. Although these proposals, frankly, are dwarfed by the $112 billion in school construction need

that the General Accounting Office has documented for us, I think these two provisions send a message that Congress believes there is a Federal role for rebuilding our Nation's schools and for cooperating and supporting State and local governments in their efforts. This is not about interfering with local control in any way. We just want to begin to engage as a national community to provide support for States and local governments to do what they deem appropriate in terms of giving our young people the educational facilities they need in which to learn.

I believe it is inexcusable that in our country, the wealthiest nation in the world, every day 14 million children go to schools with broken windows, leaking pipes and overcrowded rooms, and I appreciate the leadership that is being demonstrated in this area.

I look forward to continue with Congressman RANGEL on the House side, who made this one of his top priorities. I look forward to working with him and my other colleagues to create a true partnership among the Federal, State, and local governments, again, to get our school facilities in shape, to bring them up to code and to give our young people the kinds of facilities that they deserve for a 21st century education.

I want to take particular note, also, of the changes that were made to the proposal for the $500-per-child tax credit. This portion of the bill provides real help to hard-working American families, and I am particularly pleased that millions of families with incomes as low as $18,000 a year, families who pay thousands of dollars in payroll taxes but who have little or no income tax liability, they will now be able to take advantage of the $500-per-child tax credit. Those low-income families are doing exactly what everyone says they should do. They are working hard and they are paying taxes. They deserve this tax relief, and I am very pleased that, at the insistence of President Clinton, they will receive it as part of the compromise achieved in this bipartisan legislation.

In addition, this bill takes many other steps to expand opportunity and economic growth. The Hope Scholarship will provide families with a tuition tax credit to help families carry the burdens of college costs. After the first 2 years of college, a tax credit of 20 percent of college tuition costs up to $10,000 annually will be available to students and their families. Moreover, employers' ability to deduct the employees' college tuition will be preserved in this legislation. That is an important kind of incentive, I think, to keep for our country.

Lastly, students will not be forced to pay taxes on the scholarships and fellowships they receive for their hard work. I, again, believe these are positive steps in the right direction.

The bill further ensures that children will no longer have to go without adequate health care. The bill contains the single largest investment in health care for children since the passage of Medicaid in 1965. It invests an unprecedented $24 billion to provide meaningful health coverage for almost half of the Nation's uninsured children.

At the same time, the bill also protects something called EPSDT. That stands for Early Periodic Screening Diagnostic and Testing, which is very important in terms of the quality of service provided for children, eye and ear examinations and the like. It preserves a basic level of benefits and services for children under Medicaid, the Medicaid Program, and gives States the additional flexibility at the same time to assure that those children are covered with health insurance for the entire year, as opposed to the trend that we see now in which they come on and go off of the Medicaid Program. So children will have more insurance because of this bill that we passed this afternoon than they have ever enjoyed in this country before. I think that is important.

Turning to the Medicare Program for seniors, I, like many other Members, had reservations, frankly, about the bill that we initially passed out of the Senate. I was one of the two members of the Senate Finance Committee who did not vote for the means testing or the age changes or the copayments on Medicare, simply because we had not looked at the issues enough, and because I think those changes simply shifted the program costs to beneficiaries rather than truly protecting Medicare. More important, rather than allowing us to bring more people into health coverage, it was pushing people out of the health care system.

I am pleased we have not rushed to judgment in terms of changing Medicare, because, again, we should be moving in the direction of providing universal coverage and coverage for seniors that is comprehensive instead of cutting away arbitrarily and making arbitrary changes. So the commission in this bill will allow us to take up the debate of what changes should be made over the long haul to preserve the long-term solvency of Medicare so we can pass on to the next generation of Americans at least as much, in terms of health coverage, as we in our time inherited from the last generation of decisionmakers. I think that is our obligation here.

I am pleased, also, that this legislation no longer includes the provisions to charge income-related part B premiums, increase the Medicaid eligibility age, nor charge seniors who prefer a home setting as opposed to institutionalization a $5-per-visit home health care copayment. These are vitally important improvements on the legislation. While many Members on both sides of the aisle disagree, I believe, again, we need to take this up, to have a public debate about what changes are appropriate before we rush to judgment in regards to that.

The conference agreement also makes major improvements in the Medicare managed care payment rate changes. While I continue to believe that moving to a 50-percent national/50-percent local payment rate blend moves too far away from recognizing local cost differentials, guaranteeing a minimum payment update is a marked improvement over the original provisions as they even came out of our committee. So, again, the conference agreement strikes a more equitable balance between encouraging managed care growth in rural areas and underserved areas and not undermining the existing managed care enrollment.

The legislation also retains a number of important aspects from the original Senate bill, including prevention services, if you will, coverage of diabetes self-management training, colorectal cancer screening, mammography screens without the deductible requirement. We had to fight and raise the point that the deductible on mammograms was absolutely inappropriate, so the investment in mammograms without deductibles will benefit an additional 2 million women.

Again, a recent study in the New England Journal of Medicine shows that a copayment causes a threefold dropoff in the number of women getting mammograms. So, providing this screening without deductible is vitally important to the health of American women.

My praise for this legislation does not mean that I do not continue to have some major concerns about certain aspects of the bill. There are several non-worker-friendly provisions that I believe move completely in the wrong direction. One of those provisions has to do with overruling of the court decision in the Pennington case, which came out of my State of Illinois. Despite our success in stripping the preemption from the original Senate bill, the conferees have decided to restore it. I think that is unfortunate. But it is an issue that was folded in this legislation, and, again, the benefits of the bill weighed against these changes are something we will have to take up separately. So, while we did not Byrd-rule the issue on Pennington at this time, I understand there is legislation that I strongly will support in regards to that issue of unemployment compensation and security.

The agreement also punts on the long-term Medicare solvency issue. Again, the commission will have to take up that issue. I look forward to their deliberation.

One last thing having to do with my State specifically, and those parts of the country that we like to call the heartland. We were very interested in the ethanol tax credit. Ethanol has an important place in our energy future in this country. I believe we should be aggressively moving to promote its use. This legislation kind of keeps the ethanol tax treatment the same way that it is currently, instead of extending it into the future in ways that I thought would have been more appropriate.

There were a number of us—in fact, 70 Members of the Senate voted for the more extensive treatment and support for ethanol. Again, that came out in the conference and that is regrettable. But we will continue to fight this fight on behalf of ethanol. I have every expectation and confidence that we will be successful in the long run.

There are a lot of other provisions such as capital gains and estate tax provisions that I have not taken the time to discuss here today. I will not take the additional time to do so now. Instead, I just want to make it clear that I strongly supported the overall bill and the bipartisan approach that made it possible. It was that cooperation, that coming together, that building on our strength with the view and the interests of all the American people, that allowed us to have this victory today.

We did the right thing for America's children. We did the right thing for America's students, our families, and we are doing the right thing for the next generation of Americans. Achieving fiscal responsibility and social fairness simultaneously is something that many thought could not happen. We have done it with this legislation that we passed, and I think every Member of this body who voted for it has reason to be proud of the work of this Congress.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## THANKS AND APPRECIATION TO DAN DUKES AND CELESTE EMBREY

Mr. LOTT. Mr. President, I would like to take a moment to recognize two young people who served on my staff through all the long hours and difficult days of the last year.

After I was elected majority leader, the next morning at 9 o'clock, I was in the majority leader's office, but I only had about a third or half of the staff that I needed. I had some interns from my State of Mississippi, some college students, who had been working with me just through the summer. I asked them to stay and help us, and they have been with me the last year.

They filled positions that are very vital. They did a great job.

Dan Dukes of Como, MS, has been like my alter ego. He has been with me throughout the day and, on occasions, when I had to go downtown, he has just done a fantastic job.

He has been my personal assistant, shepherding my appointments, finding my lost notebooks, and keeping up with my headlong dashes from meeting to meeting.

Dan has had the patience of a saint and the attention to detail of a seasoned Hill staffer. It is an understatement to say that I will miss him as he returns home to finish his studies at the University of the South in Sewanee, TN.

This is one of those occasions when we say goodbye to a young man with every expectation that we will be seeing him often—and hearing about him too. I have the same feeling about him as I once had about a youngster on my staff by the name of Chip Pickering, who now represents the Third District of our State.

I want to express to him publicly my appreciation for filling in the way he did and doing a great job.

I also want to recognize Celeste Embrey of Southaven, MS, who has been one of the two receptionists in my front office who answered the thousands of calls that have come in, some of them not always very complimentary. She has done it with just charm and grace. In fact, she does just a great job that the President of pro tempore, the Senator from South Carolina, comes by to check on her several times each week to make sure she is doing all right. She appreciates that, and I appreciate that.

Even my colleagues who do not know her by name know well her unfailing smile, her enthusiastic greeting, her ability to make everyone feel at home.

If you have enjoyed the atmosphere of true southern hospitality in my office, you have Celeste to thank. But you cannot fully appreciate what she has done for us until you overhear her conversations with callers—whether from Mississippi or around the country.

She has always dealt with their questions and handled their complaints with a concern and patience that go well beyond the call of duty.

Celeste is off to graduate school, and though there will soon be another person at her desk in my outer office, there will still be a void in our staff. I will have to get her new phone number so that any of us who miss the brightness of her welcome and the cheer of her voice can keep in close touch.

Dan and Celeste are the kind of young people who keep up our faith in the rising generation. I am proud of them. I hope they will always be proud to have been part of the Lott team.

I want to say to these two very fine young people, I really appreciate their work. I am proud of them, and I wish them Godspeed in whatever they do in the years to come.

## NOMINATIONS TO REMAIN IN STATUS QUO

Mr. LOTT. Mr. President, as in executive session, I ask unanimous consent that all nominations received by the Senate during the 105th Congress, first session, remain in status quo, notwithstanding the August-September adjournment of the Senate and the provisions of rule XXXIII, paragraph 6 of the Standing Rules of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations on the Executive Calendar.

Mr. President, I withdraw that unanimous consent request at this time and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## TRIBUTE TO DAVE NAKDIMEN

Mr. MCCONNELL. Mr. President, I rise today to pay tribute to Mr. Dave Nakdimen, an outstanding newsman, who retired after a wonderful career in television news.

Dave served the Louisville area for 36 years on WAVE television news.

Dave was born in London, KY, and became interested in journalism by listening to the radio at an early age. After years of listening to political news and election-night returns, Dave decided to study journalism at the University of Kentucky. After graduation in 1955, he took a job as a sports writer with the Lexington Leader. While working in Lexington, he met his future wife, Wanda, who was moving to Louisville to take a job at a local hospital. After they became engaged, they packed their bags and headed to Louisville, where Dave landed a job at WAVE–TV. The rest is history.

WAVE was his first job in broadcast media. Dave was assigned to cover city hall, and there he met and interviewed some of the most important men and women in the last half of this century. Dave covered the civil rights movement of the 1960's, where he interviewed Dr. Martin Luther King, Jr. during an open-housing march. He also interviewed Ronald Reagan, George Bush, David Brinkley, John Wayne, and countless other memorable personalities.

Dave won't be resting during his retirement, though; he's returning to WAVE–TV after a brief vacation to produce weekly commentaries for the station's 6 o'clock newscasts. When asked by the the Courier-Journal if he would repeat his experience in journalism, Mr. Nakdimen responded: ''I think so. I really enjoyed it. It was a lot of hard work, but it was a lot of fun, too.'' Dave's colleagues also remember him fondly. Kathy Beck, the news director at WAVE–TV, said Dave is ''a man of great integrity'' throughout the news world.

All those who know Dave know that he gives his endeavors his all. He is a deacon at his church, and he shows intense faithfulness in supporting his beloved University of Kentucky Wildcat

basketball team. Dave's retirement means he will be able to do more of the things he loves, including spending time with his wife, Wanda, and his daughter, Suzanne.

Mr. President, I ask that you and my colleagues join me in paying tribute to the career of Dave Nakdimen. It surely has been a memorable one.

Mr. President, in the world of television news it is extremely difficult to develop expertise in covering politics. Most of the political reporters that we deal with who are really talented in covering what the occupant of the Chair and myself do everyday tend to be in print journalism.

There is one real exception to that: Dave Nakdimen. Dave was the only expert political reporter I ever met in local television. He had a distinguished career. We will all miss him greatly. He is a man of great principle, a personal friend. I remember meeting him when I was in my twenties sitting in the office of a local official in Jefferson County, that is, Louisville, KY. He was doing his job then. He is a superb individual, a fine man with deep religious convictions who will be missed in the reporting of political news in my hometown.

Mr. President, I wish Dave Nakdimen well in his retirement years.

I ask unanimous consent that an article from The Courier-Journal be printed in the CONGRESSIONAL RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Louisville Courier-Journal, July 11, 1997]

WAVE'S NAKDIMEN IS RETIRING AFTER 3 DECADES

(By Tom Dorsey)

Today is the last day on the job for WAVE reporter Dave Nakdimen after 36 years.

''I plopped down here in 1961 and have been in the same spot ever since,'' said Nakdimen. The soft-spoken journalist with the dry sense of humor has been a fixture on the local TV scene.

''He's a wonderful guy and clever writer,'' said WAVE colleague Jackie Hays. ''If I had a question on anything—but especially politics—I knew he'd know the answer.''

Nekdimen, 64, probably holds the record for the most years as a TV reporter in Louisville.

He remembers covering political races in which candidates ran as segregationist. He recalls interviewing the Rev. Dr. Martin Luther King Jr. during an open-housing march in the '60s.

After the interview Nakdimen discovered that the sound system wasn't working. ''So when King came around the block again, we asked him if he'd do the interview over and he was nice enough to do it.''

On another day Nakdimen was assigned to do one of those worst-intersection-in-town stories.

''As I was standing there shooting the film, an accident happened right in front of me that perfectly illustrated the traffic problem,'' Nakdimen said. ''I ran back to the station knowing what a great story I had, opened the camera and found there was no film in it.''

Most days went better than that for the man who was born in St. Charles, Va. He grew up in London, Ky., listening to election-night returns and political conventions on radio.

That's what got him interested in the news. When he graduated from London High School, he went on to study journalism at the University of Kentucky, where he graduated in 1955.

His first job was writing sports for the Lexington Leader, the former afternoon newspaper. He almost connected with a job at The Courier-Journal. Along the way he became engaged to his future wife, Wanda. She was a nurse who was taking a job in Louisville, so he found one here too.

''WAVE (radio and TV) was looking for somebody to cover City Hall,'' he said. ''I had never worked a day on radio or TV in my life, but I decided to take a shot at it.''

The rest is history—36 years of it on the job and in the marriage.

The first two weeks on the job, he met David Brinkley and Ronald Reagan. ''It was fun to talk with John Wayne, sit down with George Bush or chase Hubert Humphrey around,'' he said.

But there were other stories, too, many of them tragic. ''I think the Standard Gravure (1989 shootings) stands out in my mind as the story I will never forget.'' The 1974 tornado that ravaged large parts of Louisville is a close second.

What's changed the most about TV news?

''Oh, it's the technology without a doubt,'' Nakdimen said. When he began working at WAVE, stories were covered with a Polaroid camera. Film came along a few years later, but it was grainy black and white.

''Color followed, then small, live cameras and satellites and now digital television is on the way,'' Nakdimen said.

''There's so much production to a TV newscast today, especially with the emphasis on live coverage.'' It's a far cry from the news he saw as a boy in London.

Nakdimen Remembers NBC's John Cameron Swayze and CBS' Douglas Edwards doing 15-minute nightly newscasts in television's early days. ''They just sat in front of a camera and read the news; it was pretty much radio on TV,'' he said.

In many ways the last 36 years has zipped by like a tape on fast-forward. But Nakdimen won't be leaving it all behind.

''I'll still be doing a once-a-week commentary for WAVE and some political and election analysis to keep my hand in,'' he said.

Would Nakdimen do those 36 years over again?

''I think so. I really enjoyed it. It was a lot of hard work, but it was a lot of fun too.''

Mr. MCCONNELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## EXECUTIVE SESSION

### EXECUTIVE CALENDAR

Mr. LOTT. Mr. President, I appreciate the cooperation of all Senators on both sides of the aisle, as we have cleared these lists. When we get through today, we hope to have cleared most of the Executive Calendar. We have some that are still being held for matching nominations, some reservations on both sides. But when we get through here, I believe we will have cleared all that is on the calendar, except maybe those that have just been reported today and maybe just eight or nine others that we are still working on.

I appreciate, again, the support that we have had from Senators on both sides and from the Democratic leader.

Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations on the Executive Calendar: Nos. 121 through 127, 133, 134, 166 through 170, 171, 172, 173, 174, 175 through 178, 179, 182 through 185, 201, 203, 204, 205 through 223, 225 through 232, and all nominations placed on the Secretary's desk in the Foreign Service.

I finally ask consent that the Foreign Relations Committee be discharged from further consideration of George Munoz, to be president of OPIC. I understand that before the Senate confirms the above nominations, there are several Senators who may like to speak.

I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, any statements relating to the nominations appear at the appropriate place in the RECORD, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

I might note, Mr. President, we are still trying to clear some other nominations. There may be another opportunity before the night is over to clear some other nominations. Some of these nominations did not actually get reported from the committees until today. We are scrambling to try to see if we can get them confirmed so they can begin their service during the August recess. Therefore, that completes my unanimous consent request.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Mr. President, reserving the right to object, I first want to commend the distinguished majority leader for his work in helping us clear the Executive Calendar.

There is a lot of work done with this unanimous consent request. And we have attempted to work together to do as much as is possible. I regret, frankly, that there are still a number of nominees, as the majority leader has mentioned, that are not covered by this unanimous-consent request. And I am hopeful that over the next few hours we may still allow for the confirmation of a number of those who are still pending.

As the leader indicated, some of those were just reported out of committee today. I guess most particularly, Mr. President, I am concerned that there are a number of judicial nominees that have been on the calendar for many, many months. And I

hope that we can reach some accommodation with regard to those nominees as well.

It has been requested of me, and I am happy to do so, that we would ask unanimous consent that the majority leader's request be amended to include the four other judicial nominees on the Executive Calendar and the five that were reported from the Judiciary Committee today. That would complete our work with regard to the judicial committee nominations. Many of those, as I said, have been pending now for a long period of time. And it would mean a good deal to a lot of Members, and certainly to the families of these judicial nominees, if they could be included. And so I ask unanimous consent at this time.

Mr. LOTT. Mr. President, I have to object to that request. But I note to the Senator from South Dakota—again, I understand why he would need to make that request. And I appreciate his cooperation. I observe that we have moved several judges in this group of nominations, some of them that have been pending literally back to last year, including some circuit judges, and that there are only four remaining that are on the calendar. I think we can maybe clear some more, one or two more of those early when we come back in session.

I think a couple of them, we may have to call them up and have a vote. I am prepared to call them up and have debate and a vote on them as we did with regard to Mr. Klein at the Justice Department. I think that these holds can only last so long. And we have to call them up and have a vote one way or the other.

The other nominations were only reported today. I think there are several of them that we can do quickly. A couple of them I know there is no problem with, but there are some others we just have not had a chance to discuss with the chairman and run them through our hotline and get them cleared. But we will be down to very few of these judges. And I hope to keep moving along as they come out of committee, including the ones that we moved here today. I believe they included the four I mentioned, and maybe there is one other one in sort of a unique category that we did approve. But we will keep working on it. And something more may even happen before the night is out. We will see how that goes.

Mr. DASCHLE. Mr. President, if I could just respond very briefly, I just say to the majority leader, I understand his explanation. And I will not object to the unanimous-consent request because obviously this is a great deal of work on the Executive Calendar. And I appreciate his cooperation on those for which he can be helpful.

I say that there are a large number of nominees that are still pending in committee. And it will be our desire to clear the committees of the pending nominations as well when we return following the August recess. And I intend to work with the leader and with our chairmen to ensure that they all are provided the opportunity to be considered and then ultimately confirmed on the Senate floor. I hope we can do that. And I have had the assurances by the majority leader that it is his intention as well when we return. I look forward to working with him to make that happen.

So I will not object.

I yield the floor.

Mr. LOTT. I thank the Senator for doing that. I do note that we had 10 pages of nominations. When the night is over, those that were on the calendar will be down to one page. And some of those have holds on both sides of the aisle. We are still working on trying to move those. So I appreciate your cooperation.

Mr. President, I yield the floor at this time.

The PRESIDING OFFICER. Is there objection to the majority leader's request?

Without objection, it is so ordered.

The nominations were considered and confirmed en bloc as follows:

THE JUDICIARY

Thomas W. Thrash, Jr., of Georgia, to be United States District Judge for the Northern District of Georgia.

Eric L. Clay, of Michigan, to be United States Circuit Judge for the Sixth Circuit.

Arthur Gajarsa, of Maryland, to be United States Circuit Judge for the Federal Circuit.

Mary Ann Gooden Terrell, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

DEPARTMENT OF COMMERCE

Robert S. LaRussa, of Maryland, to be an Assistant Secretary of Commerce.

NATIONAL COUNCIL ON DISABILITY

Yerker Andersson, of Maryland, to be a Member of the National Council on Disability for a term expiring September 17, 1999. (Reappointment)

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Jose-Marie Griffiths, of Tennessee, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2001.

DEPARTMENT OF STATE

David J. Scheffer, of Virginia, to be Ambassador at Large for War Crimes Issues.

Ralph Frank, of Washington, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Nepal.

John C. Holzman, of Hawaii, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Republic of Bangladesh.

Gordon D. Giffin, of Georgia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Canada.

Karl Frederick Inderfurth, of North Carolina, to be Assistant Secretary of State for South Asian Affairs, vice Robin Lynn Raphel.

Linda Jane Zack Tarr-Whelan, of Virginia, for the rank of Ambassador during her tenure of service as United States Representative to the Commission on the Status of Women of the Economic and Social Council of the United Nations.

Richard Sklar, of California, to be Representative of the United States of America to the United Nations for U.N. Management and Reform, with the Rank of Ambassador.

A. Peter Burleigh, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be the Deputy Representative of the United States of America to the United Nation's with the rank and status of Ambassador Extraordinary and Plenipotentiary, vice Edward William Gnehm, Jr.

DEPARTMENT OF DEFENSE

Rudy deLeon, of California, to be Under Secretary of Defense for Personnel and Readiness.

DEPARTMENT OF THE INTERIOR

Kathleen M. Karpan, of Wyoming, to be Director of the Office of Surface Mining Reclamation and Enforcement.

UNITED STATES ENRICHMENT CORPORATION

Kneeland C. Youngblood, of Texas, to be a Member of the Board of Directors of the United States Enrichment Corporation for a term expiring February 24, 2002. (Reappointment)

DEPARTMENT OF THE INTERIOR

Robert G. Stanton, of Virginia, to be Director of the National Park Service. (New Position)

Patrick A. Shea, of Utah, to be Director of the Bureau of Land Management, vice Jim Baca.

DEPARTMENT OF TRANSPORTATION

Jane Garvey, of Massachusetts, to be Administrator of the Federal Aviation Administration for the term of five years.

NATIONAL COUNCIL ON DISABILITY

Gina McDonald, of Kansas, to be a Member of the National Council on Disability for a term expiring September 17, 1998.

Bonnie O'Day, of Minnesota, to be a Member of the National Council on Disability for a term expiring September 17, 1998. (Reappointment)

NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD

Paul Simon, of Illinois, to be a Member of the National Institute for Literacy Advisory Board for a term expiring September 22, 1998.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Louis Caldera, of California, to be a Managing Director of the Corporation for National and Community Service.

DEPARTMENT OF THE INTERIOR

Jamie Rappaport Clark, of Maryland, to be Director of the United States Fish and Wildlife Service.

DEPARTMENT OF JUSTICE

Calvin D. Buchanan, of Mississippi, to be United States Attorney for the Northern District of Mississippi for the term of four years.

Thomas E. Scott, of Florida, to be United States Attorney for the Southern District of Florida for the term of four years.

DEPARTMENT OF AGRICULTURE

Shirley Robinson Watkins, of Arkansas, to be a Member of the Board of Directors of the Commodity Credit Corporation.

Shirley Robinson Watkins, of Arkansas, to be Under Secretary of Agriculture for Food, Nutrition, and Consumer Services.

I. Miley Gonzalez, of New Mexico, to be Under Secretary of Agriculture for Research, Education, and Economics.

Catherine E. Woteki, of the District of Columbia, to be Under Secretary of Agriculture for Food Safety. (New Position)

August Schumacher, Jr., of Massachusetts, to be Under Secretary of Agriculture for Farm and Foreign Agricultural Services.

August Schumacher, Jr., of Massachusetts, to be a Member of the Board of Directors of the Commodity Credit Corporation.

IN THE AIR FORCE

The following-named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C. section 601:

*To be lieutenant general*

Maj. Gen. Robert H. Foglesong, 8617

IN THE ARMY

The following-named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Maj. Gen. John M. Pickler, 5130

IN THE MARINE CORPS

The following-named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Maj. Gen. Michael J. Byron, 1295

DEPARTMENT OF STATE

Edward William Gnehm, Jr., of Georgia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Director General of the Foreign Service.

James W. Pardew, Jr., of Virginia, for the Rank of Ambassador during his tenure of service as U.S. Special Representative for Military Stabilization in the Balkans.

Stanley O. Roth, of Virginia, to be an Assistant Secretary of State.

Marc Grossman, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be an Assistant Secretary of State.

James P. Rubin, of New York, to be an Assistant Secretary of State.

Bonnie R. Cohen, of District of Columbia, to be an Under Secretary of State.

David Andrews, of California, to be Legal Adviser of the Department of State. (New Position)

Wendy Ruth Sherman, of Maryland, to be Counselor of the Department of State, and to have the rank of Ambassador during her tenure of service.

John Christian Kornblum, of Michigan, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal Republic of Germany.

James Franklin Collins, of Illinois, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Russian Federation.

Maura Harty, of Florida, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Paraguay.

James F. Mack, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Co-operative Republic of Guyana.

Anne Marie Sigmund, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kyrgyz Republic.

Keith C. Smith, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Lithuania.

Daniel V. Speckhard, of Wisconsin, a Career Member of the Senior Executive Service, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Belarus.

Richard Dale Kauzlarich, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Bosnia and Herzegovina.

Felix George Rohatyn, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to France.

Philip Lader, of South Carolina, to be Ambassador Extraordinary and Plenipotentiary of the United States of Great Britain and Northern Ireland.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE FOREIGN SERVICE

Foreign Service nomination of Marilyn E. Hulbert, which was received by the Senate and appeared in the Congressional Record of February 13, 1997.

Foreign Service nominations beginning John R. Swallow, and ending George S. Dragnich, which nominations were received by the Senate and appeared in the Congressional Record of April 25, 1997.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

George Munoz, of Illinois, to be President of the Overseas Private Investment Corporation.

STATEMENTS ON THE NOMINATION OF JANE GARVEY

Mr. MCCAIN. Mr. President, I rise in support of Jane Garvey's confirmation as Administrator of the Federal Aviation Administration [FAA]. It is our responsibility to move forward with this nominee now. The Administration waited at least 7 months to name a successor to former FAA Administrator David Hinson. We cannot afford to let this critical safety post remain vacant any longer.

Ms. Garvey will be the first FAA Administrator to serve in the five-year term we established in last year's FAA reauthorization bill. The responsibilities and the challenges she faces are daunting. Ms. Garvey needs our full support in meeting these challenges head-on. Both she and the traveling public deserve no less.

My reservations about Ms. Garvey's abilities are no secret. Her only real aviation experience is a 2-year stint as director of the Boston Logan airport. It is almost unfair for the Administration to have thrust Ms. Garvey into such a highly accountable safety position without requisite aviation expertise. Ms. Garvey's principal area of expertise is surface transportation. Representatives from the highway sector praise her several years of public service, both at the Massachusetts Department of Public Works and as Assistant Administrator of the Federal Highway Administration.

In both of these positions, Ms. Garvey had responsibilities associated with the Central Artery/Third Harbor Tunnel project in Boston. This may be a project that is now proceeding according to schedule, and within revised budget estimates. Let us not forget, though, that the cost estimates for the project have been revised from an estimated $2 billion to a cost that exceeds $10 billion. Federal taxpayers, of course, are picking up most of the tab. I do not hold Ms. Garvey entirely responsible for this boondoggle. Neither do I think she can distance herself entirely from this monument to pork-barrel politics.

Ms. Garvey's involvement in this project holds particular significance in light of the history of mismanagement of large acquisition projects at the FAA.

I, obviously cannot, nor do I intend to, credit Ms. Garvey with any of these problems at the FAA. I simply make the point that her association with the Central Artery/Third Harbor Tunnel project is not a ringing endorsement of her ability to manage large FAA acquisition programs within budget.

Much of the FAA's misfortune has been attributed to the culture of its bureaucracy. Ms. Garvey receives high marks for her superior management abilities. Perhaps she is just the breath of fresh air we need at the FAA, to make sure that the Agency remains the premier aviation safety Agency in the world.

Again, I wish Ms. Garvey every success, and I pledge to do whatever I can to support her in her new role. I urge that we move forward expeditiously in confirming Ms. Garvey as the next FAA Administrator.

I want to assure Ms. Garvey that the Commerce Committee and the Aviation Subcommittee will be watching very carefully and closely, because she does not come to this job highly qualified, and that was made clear during her hearings. I believe the President of the United States has the ability to nominate people he wants for important positions. I believe, therefore, that we should move forward expeditiously with Ms. Garvey's nomination. At the same time, I have grave and severe reservations. And, also, at the same time, I will do everything I can to see that she succeeds in her new and most daunting task.

Mr. President, I yield the floor.

Mr. GORTON. Mr. President, I rise in support of Jane Garvey's confirmation as Administrator of the Federal Aviation Administration [FAA].

As the new FAA Administrator, Ms. Garvey is facing significant challenges. These challenges include ensuring that air travel is safe, that the modernization of the air traffic control system is done on time and on budget, and that airport development keeps pace with the expected significant increases in passengers and cargo. Ms. Garvey also faces a significant challenge to independently assess aviation funding needs, and to speak out as to what the true needs are.

We are counting on Ms. Garvey to provide strong leadership. Many positive statements have been made about her tenure at the Federal Highway Administration, and about her outstanding management skills and strong financial experience. These qualities will serve Ms. Garvey well in running the FAA, and in working with the Congress.

I have heard a great deal about the need to change how things are done at the FAA, and some of Ms. Garvey's past accomplishments indicate that she is up to the task. I understand that one of her most noteworthy accomplishments at the Federal Highway Administration was to help implement innovative financing options to accelerate completion of highway projects and to leverage federal funds. Through her efforts, unnecessary restrictions were cleared away, and program flexibility was provided that allowed good ideas to be introduced. Such actions show that she can look beyond business as usual, and see opportunities to make improvements. Such creativity is needed at the FAA.

I am sure that no one needs to be reminded that aviation safety is the paramount responsibility of the FAA. I expect Ms. Garvey to take whatever reasonable action is necessary to see that the FAA is proactive, and makes whatever changes are needed before, not after, an airline accident occurs. The public expects and deserves nothing less.

Ms. Garvey will be the first FAA Administrator to have a fixed 5-year term. The Congress established this term so that the FAA would have the continuity and direction that its complex, technical, and costly programs require. Ms. Garvey has made a public commitment that she will stay for the full 5 years of her term. I would encourage her to keep this commitment.

I look forward to working with Ms. Garvey to address the needs of the nation's aviation system, and to see that it continues to be the safest, most efficient system in the world. I wish Ms. Garvey great success. I would join with Senator MCCAIN in urging this body to quickly confirm Ms. Garvey as the next Administrator of the FAA. Thank you, Mr. President.

Mr. HOLLINGS. Mr. President, I rise today in support of the President's nomination of a new Administrator of the Federal Aviation Administration [FAA], Ms. Jane Garvey. We have waited several months for this nomination, and I want to thank my distinguished colleague and Chairman, Senator MCCAIN, for bringing Ms. Garvey's nomination up for a vote so expeditiously.

I want to point out Ms. Garvey's impressive public service record. She has held several important positions with both State and Federal Governments. I find it encouraging to find someone with Ms. Garvey's leadership capabilities dedicating her career to public service. All too often society's best and brightest leave public service for more lucrative pursuits. But with Ms. Garvey, we have one of the best making a significant contribution for the good of the public. I applaud Ms. Garvey for that.

Ms. Garvey comes to us after receiving high marks for her work as Deputy Administrator of the Federal Highway Administration. During her tenure, Ms. Garvey has demonstrated that she is an impressive leader. This nation deserves a nominee like Ms. Garvey to lead the FAA.

The FAA's job is to safely operate the national air system. When it comes to safety, there is always room for improvement. Improving the system is a monumental task, and Ms. Garvey certainly has her work cut out for her.

The FAA also plays an important role in developing and promoting airport development. Airport development is a critical component in promoting the growth of aviation. In my home state of South Carolina, the economic impact of aviation statewide is more than $3 billion. The travel and tourism industry is the State's second largest employer. Without modern airports, the economy in South Carolina—and in every other state—suffers. Infrastructure development fuels travel and tourism and enables communities to attract new business to all of South Carolina.

Because of Ms. Garvey's extensive background at the highway department, I expect she will bring creativity and ingenuity to the Airport Improvement Program. The program is a critical component of our nation's transportation infrastructure, and I am enthusiastic about Ms. Garvey's ability to manage this program well.

I want to conclude by commending the people at the FAA. All day, every day, they ensure that millions of Americans reach their destinations safely. But the system needs to be modernized, and it needs to be done well. I look forward to working with Ms. Garvey and Secretary of Transportation Slater over the next several years, as we move toward improving the safety of our entire transportation network.

I urge my colleagues to approve Ms. Garvey as Administrator for the Federal Aviation Administration.

## NOMINATION OF JANE GARVEY

Mr. KERRY. Mr. President, on June 24, I had the privilege of introducing Ms. Jane Garvey of Massachusetts to the Senate Commerce Committee as President Clinton's nominee to be the next administrator of the Federal Aviation Administration. On that day I proclaimed that she has the experience, the intellect and the management skills necessary to prepare the FAA for the challenges of the 21st Century.

Since my introduction, the Chairman and other members of this Committee have put forth questions, both verbally and in writing, on a range of issues pertaining to Ms. Garvey's past experience and to the important challenges facing the FAA. In my view, her answers have, indeed, borne out my glowing introduction and have demonstrated beyond any doubt that she will be an excellent FAA Administrator. Indeed, Ms. Garvey s nomination comes to the floor with the unanimous support of the Commerce Committee.

Mr. President, the challenges before the FAA are enormous. Among other matters, the next Administrator will need to effectively modernize the nation's air traffic control system to keep pace with America's growing air travel needs. She will also be charged with efficiently procuring and deploying the next generation of explosive detection equipment to protect our nation's citizens from rogue elements who seek to indiscriminately harm air travelers. Action on these and other matters are essential to ensuring the safety and security of all American citizens. To address these matters and guide the world's largest aviation agency into the 21st Century, the President sought a strong and capable leader with proven and tested management skills. In my view, the President could not have made a better choice.

Jane Garvey has long been recognized in Massachusetts and in Washington as a top-quality public servant with superior management skills. Jane Garvey directed the Massachusetts Department of Public Works, the 8th largest state highway program in the nation, where she supervised the state's multibillion-dollar highway construction program. Jane Garvey also served as Massachusetts Director of Aviation, managing airport operations at Logan Airport in Boston and directing the planning of Logan's $1 billion modernization. Upon coming to Washington where Jane has been Deputy and Acting Administrator of the Federal Highway Administration, Jane supervised an agency with a $20 billion dollar budget and offices in every state. At each step in her impressive career, Jane Garvey has received praise from government and industry officials alike. In my view, there can be no doubt that Jane Garvey has the vision and proven administrative experience to manage the FAA.

However, aside from her managerial expertise, Jane Garvey has also developed a reputation for putting safety first. Over the past four years, Jane Garvey has been a recognized leader in moving safety to the top of Federal Highway's agenda. Hazardous highway-rail grade crossings are being eliminated; truck safety standards are being upgraded; and infrastructure investments and high-tech intelligent transportation systems are emphasizing safety first. In fact, as Massachusetts Director of Aviation, Jane oversaw the deployment of prototype safety systems to prevent runway collisions and a communications center that integrated operations with safety and weather information. Jane Garvey has

consistently made public safety her highest priority, and she will take this commitment to safety with her to the FAA. She is the best choice to ensure that our nation's passenger air system remains the world's safest as air traffic continues to increase.

Finally, Jane Garvey understands the value and promise of technology. She presently oversees nearly a half-billion dollars annually in Federal Highway technology research and development including the deployment of intelligent transportation systems that apply advanced computer and communications technologies to travel. At Logan Airport, Jane Garvey managed the deployment of modernized air traffic control systems and made the airport a testing ground for such innovative technologies as radar-linked runway-guide guard lights and converging runway display aids.

Jane Garvey's management experience combined with her understanding of emerging technologies will enable the FAA to deploy cutting-edge technologies on time and within its budget, and will help the FAA to deploy the air-traffic control systems and safety improvements necessary to support our nation s growing air travel needs.

Mr. President, I submit to you that above all else, a vote for Jane Garvey to be the next FAA Administrator is a vote for superior management and an unwavering commitment to public safety. I urge my colleagues to unanimously support this nomination.

Mr. FORD. Mr. President, I rise today in support of the President's nomination of a new Administrator of the Federal Aviation Administration [FAA], Ms. Jane Garvey. Ms. Garvey comes to us with over a decade of distinguished public service.

From 1991 to 1993, Ms. Garvey served as director of aviation for the Massachusetts Port Authority. Before that, Ms. Garvey served as the commissioner and associate commissioner for the Massachusetts Department of Public Works from 1983 to 1991. Ms. Garvey's experience in public office is impressive. That experience will prove invaluable in her ability to manage a complex agency like the FAA.

Over the last several years, Linda Daschle and David Hinson worked hard to change the direction of the FAA. Ms. Garvey, if confirmed, will need to continue those efforts. Ms. Garvey comes to this position as a proven manager with outstanding leadership skills. She will need those skills to navigate the FAA through some choppy waters over the next 5 years.

During the confirmation hearing, the chairman expressed concern about Ms. Garvey's involvement with the cost overruns for the central artery/third harbor tunnel project in Boston. I want to take a moment to address the chairman's concerns. Let me suggest that, from what we have been able to piece together, Ms. Garvey took several proactive steps to try and keep that project within budget. First and foremost, a significant reason for the cost overrun is because of inflation. The original cost estimate of $2.6 billion was based on 1982 dollars, which, at the time, was a standard method for calculating project costs at FHWA. The project is now expected to be completed at $10.4 billion. Of that increase, approximately $4.1 billion is a result of inflation.

The scope of the project has changed over the past 15 years as well. The total cost of the project now includes several new interchanges, additional pavement work, bridge work, in addition to the cost of relocating a toll plaza. Many of these items were not funded by the highway administration, but were still included in the total cost of the project. Ms. Garvey has noted that, as deputy administrator for FHWA, these additional costs would not be borne by the Federal Government—the State of Massachusetts must assume these costs.

It strikes me that—from what the committee has been able to gather—that Ms. Garvey has been proactive in trying to contain the costs of this project. For example, Ms. Garvey, while deputy at FHWA, imposed caps that limited Federal spending on this project. This is the kind of proactive leadership we need to ensure that Federal resources are used wisely.

I believe Ms. Garvey's experience with the central artery project will help her manage the sizable effort now underway at the FAA to modernize the air traffic control system. These are large, complex efforts, similar in scope to the central artery/third harbor tunnel project. One of those efforts is the replacement of several critical air traffic control computer systems. This effort must run smoothly and within budget, and the nominee's leadership will provide much needed guidance in achieving this critical objective.

Another FAA effort will be the transition to a global positioning system [GPS]. By moving to GPS, the industry expects to save billions of dollars every year from more efficient navigation. Like replacing the air traffic control systems, the transition to GPS must also be managed smoothly. I expect Ms. Garvey's dedication and leadership will help FAA succeed in this effort.

Let us also not forget the critical role FAA plays in ensuring that air transportation remains the safest way to travel. Every day, 365 days a year, thousands of aircraft make their way safely thanks in part to the nationals air traffic control system. The FAA manages this system admirably, but there is always room for improvement. I anticipate Ms. Garvey will bring her ingenuity and creativity to the task of improving safety. If approved, I pledge to work with Ms. Garvey to make air travel as safe as it can be.

I know Secretary Slater holds a similar philosophy on safety—and I also know Ms. Garvey and Mr. Slater have an excellent working relationship. By working together, I expect the team of Slater and Garvey to effectively manage a safe and efficient national air system.

Ms. Garvey comes to us having won high marks as Deputy Director for the Highway Administration. Those who worked with her at the Agency and those from outside the Agency all credit Ms. Garvey with strong leadership, dedication, and ingenuity.

I urge my colleagues to support this nomination. Thank you, Mr. President.

### STATEMENT ON THE NOMINATION OF ERIC L. CLAY

Mr. LEAHY. Mr. President, I delighted that the majority leader has decided to take up the nomination of Eric L. Clay to be a U.S. Circuit Judge for the Sixth Circuit. Mr. Clay is a well-qualified nominee.

The Judiciary Committee unanimously reported his nomination to the Senate on May 22, 1997. The sixth circuit desperately needs Eric Clay to help manage its growing backlog of cases. In fact, the sixth circuit has three vacancies, two of which have been designated judicial emergencies by the Judicial Conference of the United States.

We first received Eric Clay's nomination in March 1996. He was accorded a hearing in the last Congress on March 26, 1996, and was reported by Judiciary Committee to the full Senate on April 25, 1996. Unfortunately, his nomination was never acted upon because of the Presidential election year slowdown of judicial confirmations in 1996.

The President renominated Eric Clay on the first day of this Congress for the same vacancy on the sixth circuit, which vacancy has existed since September 1994. This is one of the judicial emergency vacancies that we should have filled last year. This vacancy has persisted for more than 2½ years. He has the support of both Senators from Michigan, a Republican and a Democrat. He had a confirmation hearing on May 7 and the committee considered and unanimously reported his nomination to the Senate 2 weeks later. This important nomination was held without action on the Senate Executive Calendar for over 2 months by the Republican leadership.

I am delighted for Mr. Clay and his family that his nomination is finally being confirmed and am confident that he will make a fine member of the sixth circuit.

### STATEMENT ON THE NOMINATION OF ARTHUR GAJARSA

Mr. LEAHY. Mr. President, I am delighted that the Majority Leader has decided to take up the nomination of Arthur Gajarsa to be a United States Circuit Judge for the Federal Circuit. Mr. Gajarsa is a well-qualified nominee.

The Judiciary Committee unanimously reported his nomination to the Senate on May 22, 1997. The Federal Circuit desperately needs Arthur Gajarsa to help manage its growing backlog of cases.

We first received Arthur Gajarsa's nomination in April 1996. He was accorded a hearing in the last Congress on June 25, 1996, and was unanimously reported by Judiciary Committee to the full Senate 2 days later. Unfortunately, his nomination was never acted upon because of the Presidential election year shutdown of judicial confirmations in 1996.

The President renominated Arthur Gajarsa on the first day of this Congress for the same vacancy on the Federal Circuit, which vacancy has existed since November 1995. This vacancy has persisted for more than 1½ years. He has the support of both Senators from Maryland. He had a confirmation hearing on May 7 and the Committee considered and unanimously reported his nomination to the Senate 2 weeks later. This nomination has been pending on the Senate Calendar since May 22. Apparently, after these 2 months on the Senate Executive Calendar without action or any explanation for its inaction, the Republican leadership is prepared to allow the Senate to approve this nomination.

I am delighted for Mr. Gajarsa and his family that he is finally being confirmed. He will make a fine judge.

## STATEMENT ON THE NOMINATION OF THOMAS W. THRASH, JR.

Mr. LEAHY. Mr. President, I am delighted that the majority leader has decided to take up the nomination of Thomas W. Thrash, Jr., to be a United States District Judge for the Northern District of Georgia. Mr. Thrash is a well-qualified nominee.

The Judiciary Committee unanimously reported his nomination to the Senate on May 22, 1997. The Northern District of Georgia Sixth Circuit desperately needs Thomas Thrash to help manage its growing backlog of cases.

We first received Thomas Thrash's nomination in May 1996. He was accorded a hearing last Congress on July 31, 1996, but his nomination fell victim to the Presidential election year confirmation shutdown of 1996. The President renominated him on the first day of this Congress for the same vacancy on the District Court for the Northern District of Georgia, which vacancy has existed since March 1996. He had a confirmation hearing on May 7 where he was supported by both Senator CLELAND and Senator COVERDELL and was reported to the Senate by the Judiciary Committee 2 weeks later. This is another of the nominations that has languished on the Senate Executive Calendar since long before the July 4 recess. I am glad that the Republican leadership has allowed this nomination to go forward. I congratulate Mr. Thrash and his family on his confirmation.

## STATEMENT OF THE NOMINATION OF PHILIP LADER

Mr. THURMOND. Mr. President, I rise on behalf of Mr. Philip Lader to be Ambassador. Philip Lader is a man of integrity and honor whom I hold in high esteem. He has a deep respect for the British people and their beautiful country. I know that he, along with his wife Linda, and their two young daughters Mary Catherine and Whittaker will represent the United States well at the Court of St. James and will make us all very proud.

Mr. President, I rise today in strong support of the confirmation of Mr. Philip Lader to be the U.S. Ambassador to the United Kingdom of Great Britain and Northern Ireland. I have known Mr. Lader and his family for years, and I believe he will work hard to maintain and strengthen the long and valuable friendship between our two nations.

Although he was born in New York, and was educated at Duke University, the University of Michigan, Harvard, and Oxford, Mr. Lader has called South Carolina home for many years. It is in South Carolina where he established himself as a leader in business and education. He was associated for 10 years with Sea Pines Co., a developer and operator of award-winning recreational communities on Hilton Head Island. In addition, he has held the following business positions: president of Business Executives for National Security; founding director of the South Carolina Jobs/Economic Development Authority; director of First Union National Bank (S.C.) and First Carolina Bank; director of the South Carolina Chamber of Commerce; chairman of the South Carolina Governor's Council on Small and Minority Business; and a member of the U.S. Senate Commerce Committee's Travel and Tourism Advisory Committee. In 1981, he founded Renaissance Weekend, a family retreat for innovative leaders.

In education, he served as president of Winthrop College in Rock Hill, SC, from 1983 to 1985. During his tenure, Winthrop was awarded the National Gold Medal for general improvements in programs. Academically, he has served as chairman of the South Carolina Rhodes Scholarship Committee, trustee of three colleges, and director of the Alumni Association at Duke University. He has taught courses at many universities and has been awarded honorary doctorates by five institutions.

Mr. President, for the past several years, Phil Lader has been utilizing his business skills in the U.S. Government. He most recently served as Administrator of the Small Business Administration. Prior to that, he was Assistant to the President and White House Deputy Chief of Staff. He has also been Deputy Director for Management at the Office of Management and Budget and has been chairman of the National Performance Review's Policy Committee, the President's Management Council, and the President's Council on Integrity and Efficiency. In addition, he has served on the National Economic Council, the President's Export Council, the Community Empowerment Board, and the Board of Governors of the American Red Cross. Currently, he is a member of the Council on Foreign Relations.

Mr. President, all of the business, academic, and Government experience that I have just described are tremendous assets Mr. Lader will bring to the Court of St. James. However, Mr. Lader has even more to offer this position, both professionally and personally. Professionally, he was executive vice president of Sir James Goldsmith's U.S. holding company, which was responsible for the analysis and sales of lands previously owned by Crown Zellerbach and Diamond International Corporations. He was also president of Bond University, the first private university in Australia, a British Commonwealth nation.

Personally, the Lader family has strong ties to the United Kingdom, particularly England and Scotland. He studied English constitutional history at Oxford University and is an Honorary Fellow of Pembroke College at Oxford. Further, the ancestors of his lovely wife, Linda, emigrated from Henley-on-Thames, just west of London. In fact, her late stepmother, Catherine Marshall, was the author of ''A Man Called Peter,'' the biography of her husband, the Scottish Presbyterian Minister Peter Marshall, who served as the U.S. Senate Chaplain from 1947 until his death in 1949. Mrs. Lader is a trustee of the American University in London.

Phil Lader is a man of integrity and honor, whom I hold in high esteem. He has a deep respect for the British people and their beautiful country. I know that he, along with his wife Linda and their two young daughters, Mary Catherine and Whittaker, will represent the United States well at the Court of St. James and will make us all very proud.

Mr. President, I reiterate my strong support for the confirmation of Phil Lader to be Ambassador to the United Kingdom of Great Britain and Northern Ireland. I have no doubt that he will live up to the commitment he made to the Foreign Relations Committee earlier this week and devote his time and energy ''not only to the salient matters of diplomacy, but also to the arts and letters, the streets and fields, the industries and entrepreneurs, those who innovate and those in need, all of which preserve and strengthen the heritage and common causes of America and the United Kingdom.''

Mr. President, I yield the floor.

## STATEMENT ON THE NOMINATION OF FELIX ROHATYN

Mr. WARNER. Mr. President, I was privileged to be on the floor at the time the distinguished majority leader put forth the Executive Calendar, including the name of Felix Rohatyn to be the United States Ambassador to France. I had the privilege of introducing Mr. Rohatyn to the Committee on Foreign Relations. And together with his lovely wife, Elizabeth, I assure the

Senate that they will make an extraordinarily competent team to represent our Nation.

And now, Mr. President, I am going to do something that is unusual. I ask unanimous consent that Mr. Rohatyn's statement before the committee be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT BY FELIX G. ROHATYN BEFORE THE SUBCOMMITTEE ON EUROPEAN AFFAIRS OF THE SENATE FOREIGN RELATIONS COMMITTEE, JULY 29, 1997

Mr. Chairman and members of the Senate Foreign Relations Committee.

It is a great honor for me to appear before you today to seek your consent to President Clinton's nomination of me to serve as the next American Ambassador to France. It is also a very emotional experience, for many reasons.

Let me begin by expressing to you, Mr. Chairman, my appreciation for your courtesies and those of your staff. You have been gracious and helpful to me and to my family in assisting us through this rather daunting process.

I am, as you know, a refugee who came to this country from Nazi-occupied Europe in 1942. As long as I can remember, going back to those very dark days, being an American was my dream. I was fortunate to achieve that dream, and America has more than fulfilled all of my expectations. To represent, at this time, my adopted country as her Ambassador would be the culmination of my career; to have been nominated to represent my country in France, a country where I spent part of my childhood and with which I have had a lifelong relationship, both professional and personal, seems to me more than I could have ever hoped for.

I have been fortunate in having had a long and active career in investment banking. Over the last 40 years or so I have provided financial advice to a number of domestic and foreign corporations, mainly involving their activities in mergers and acquisitions. I have also, over the years, served on the boards of directors of a number of large multinational corporations. This activity has included a number of negotiations through which French companies made significant investments in the U.S. and vice versa. This, coupled with the fact that my former firm has an affiliate in Paris, has allowed me to maintain close personal relationships with a number of French business leaders, as well as with leaders from the world of culture, media and the arts. I have also over the years known a number of senior government leaders and have had the honor of being decorated by the French government.

I believe that my business experience, as well as my relationship with French leaders and my knowledge of France in general, will enable me to represent my country effectively if you choose to consent to my nomination.

I also believe that our relationship with France is extraordinarily important. Aside from the history of allied cooperation going back to Washington, Thomas Jefferson and Lafayette, we have fought side by side with France in World Wars One and Two, and more recently in the Gulf War. We sit side by side with France in the U.N. Security Council, in the OECD, and in every other major multinational institution; our soldiers are participating together today in NATO's important peacekeeping operation in Bosnia. France is one of our largest trade partners and one of the largest foreign direct investors in the U.S.; we are the largest foreign investor in France. While we have many differences with France, in a variety of areas, I believe that, most importantly, France is a democracy which is our friend and with whom we share our most important values.

France, like some other European countries, is going through a difficult period of adjustment to the changes demanded by global economic forces. France's success is dealing with her problems is important not only in the context of our bilateral relationship, but also in the context of the future architecture of Europe. The U.S. has, for the last 50 years, encouraged the political and economic integration of Europe. France's role in such integration is critical.

Mr. Chairman, I have had the great privilege of serving my city and my state at a time when New York City was in considerable difficulty. I hope that you will give me the opportunity, by consenting to my nomination, to represent my country's interests at a time and in a place which is important to the U.S. I can assure you that, should you do me this honor, I will make every effort to do so effectively.

STATEMENT ON THE NOMINATION OF JAMIE RAPPAPORT CLARK

Mr. CHAFEE. Mr. President, I would like to make a few remarks about the nomination of Jamie Rappaport Clark to be Director of the United States Fish and Wildlife Service. The President nominated Ms. Clark on July 9, and I am pleased to report that last Thursday, July 24, the Committee on Environment and Public Works reported out the nomination.

Jamie Clark is an outstanding candidate for the tasks at hand. She has worked closely with the Environment Committee staff and Committee members' staff on the Endangered Species Act and other tough issues. I have heard nothing but glowing reports of her ability to work with the Administration and Congress, which will serve her well, if confirmed. Throughout her educational and professional experiences, she has been involved on a daily basis with the principles of fish and wildlife management. Jamie Clark has worked with the Fish and Wildlife Service for over 8 years, both at the regional level and at headquarters. For the past 4 years of her tenure with the Service, she has held the position of Associate Director of Ecological Services.

Prior to joining the Fish and Wildlife Service, Jamie Clark was the lead technical authority for fish and wildlife management on U.S. Army installations worldwide. From 1984 until 1988, she managed the Natural and Cultural Resources program within the National Guard. She also was a research biologist for the U.S. Army Medical Research Institute and worked for the National Institute for Urban Wildlife as a wildlife biologist.

Jamie Clark's educational background is equally impressive and suits her well to the position of Fish and Wildlife Service Director. She holds a master's degree (MS) in Wildlife Ecology from the University of Maryland and a bachelor's degree (BS) in Wildlife Biology.

If confirmed, Jamie Clark will be responsible for developing and carrying out policies to conserve, protect, and enhance the Nation's fish and wildlife and their habitats. A number of challenging tasks fall on the shoulders of the Fish and Wildlife Service Director, including the management of the National Wildlife Refuge System; the implementation of the Endangered Species Act; fish hatchery management; recreational fishing programs; management of non-indigenous and exotic species; conservation and management of migratory waterfowl and wild birds; and the list of responsibilities goes on.

The Fish and Wildlife Service is an agency with the wonderful but difficult task of serving as an advocate for fish and wildlife. It must protect these public resources in the face of much criticism and question. The Service is charged with fulfilling its own mission in light of competing and sometimes conflicting mandates. It also must address the contentious issues of private property rights, water rights, and takings. The Service has done a remarkable job in recent years of developing initiatives that deal with many of these issues. The internal guidance documents for permits; the new safe harbor, candidate conservation and ''no-surprises'' policies; the policy for Native American rights; and the streamlining initiatives for federal agencies have all led to better implementation of the Endangered Species Act, better public relations, and ultimately better protection for the species.

I am confident that Jamie Clark has the experience, insight, and the strength to lead the Fish and Wildlife Service to continue these initiatives and develop new ones through the challenges ahead. Thank you.

STATEMENT ON THE NOMINATION OF EDWARD GNEHM, JR.

Mr. ENZI. Mr. President, it is a great personal pleasure for me to express my congratulations to Ambassador Edward Ghehm, Jr. as the Senate completes its action on his nomination to be Director General of the Foreign Service. I have known Edward Ghehm, or Skip, as his friends call him, since the days when we were in college together. He and I were college roommates for 3 years. Skip has been a brother to me since we first met. I know him better than any investigator could hope—and there isn't anything I know I wouldn't share, from his sense of humor to his work ethic. Skip has always put God and Country first. He has lived a motto that says, ''If what you did yesterday still seems important, you haven't done much today.''

It doesn't seem all that long ago, we were both attending George Washington University here in the Nation's Capital. We used to dream about the future. I can tell you, we never dreamed that ''someday'' we'd both be before a congressional panel, me as the junior Senator from Wyoming, and Skip as the President's nominee for a key State Department post.

Through the years, we have kept track of each other. I have been very proud, but not surprised, that Skip has gone on to accomplish great things in his career with the State Department. I've lived around the world through my brother.

Skip has been a man for our time. A quick glance at Skip's duty sheet will show that whenever there has been a ''hot spot'' in the world community that warranted the careful attention of the State Department and a search for ''the right one''—someone with a great sensitivity to a tense foreign situation and strong diplomatic skills to help find a solution—Skip was often the one they called.

To name a few of his tours of duty with the State Department, Skip has served in the Vietnamese Embassy, he has been in Nepal, and he has been stationed in many posts in the Middle East.

Skip was a part of the team that negotiated hostage releases. He has been in charge of evacuating Embassy families. Each change of administration has sought out his expertise, his counsel, and his active participation in our foreign policy. When Operation Desert Storm became necessary, once again Skip was there, serving as our Ambassador to Kuwait. You'll remember the proud moment when the American flag went back up at our Embassy—Skip was the person you saw raise the colors.

Most recently, Skip has been serving as the Deputy U.S. Representative to the United Nations.

Ambassador Gnehm is a man of great character, strongly held principles, and the greatest integrity you could hope to find. He has earned the respect of those he works with, and his counterparts in the foreign countries and Embassies in which he has been assigned.

Skip is the perfect choice for the Foreign Service. He has always seen the foreign service as his best chance to serve—to make a difference. And he has made a difference. He has the experience and the determination it takes to succeed. He's a proven leader who understands the need to follow orders and the direction of our foreign policy. He possesses the finest of administration skills. I have no doubt that the wealth of talent he possesses will enable him to lead with confidence. As always, Skip will do a fine job and produce results.

It is with great pleasure that I support his nomination.

NOMINATIONS OF GEORGE OMAS, JAMES ATKINS, AND JANICE LACHANCE

Mr. LOTT. Mr. President, we have had some others cleared. Therefore, I ask unanimous consent that the Senate continue in executive session to consider the following nominations on the Executive Calendar, the nominations of George Omas, James Atkins, and Janice Lachance which were reported from the Governmental Affairs Committee today, that the nominations be confirmed, the motions to reconsider be laid upon the table, any statements relating to the nominations appear at the appropriate place in the RECORD, and the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

James H. Atkins, of Arkansas, to be a Member of the Federal Retirement Thrift Investment Board for a term expiring September 25, 2000.

OFFICE OF PERSONNEL MANAGEMENT

Janice R. Lachance, of Virginia, to be Deputy Director of the Office of Personnel Management.

POSTAL RATE COMMISSIONER

George A. Omas, of Mississippi, to be a Commissioner of the Postal Rate Commission for a term expiring October 14, 2000.

Mr. LOTT. I yield the floor.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

Mr. WARNER. Now, Mr. President, I will continue in the stead of the majority leader.

Mr. President, I am advised that the requests to be made on behalf of the majority leader by the Senator from Virginia have all been cleared and that we may proceed in the absence of anyone on the other side.

## REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NOS. 105–20 AND 105–21

Mr. WARNER. I now ask, Mr. President, as in executive session, unanimous consent that the Injunction of Secrecy be removed from the following treaties transmitted to the Senate on July 31, 1997, by the President of the United States:

Extradition Treaty with Barbados (Treaty Document No. 105–20); Extradition Treaty with Trinidad and Tobago (Treaty Document No. 105–21).

I further ask unanimous consent that the treaties be considered as having been read the first time; that they be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's messages be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The messages of the President are as follows:

*To the Senate of the United States:*

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Extradition Treaty between the Government of the United States of America and the Government of Barbados, signed at Bridgetown on February 28, 1996.

In addition, I transmit, for the information of the Senate, the report of the Department of State with respect to the Treaty. As the report explains, the Treaty will not require implementing legislation.

The provisions in this Treaty follow generally the form and content of extradition treaties recently concluded by the United States.

This Treaty will, upon entry into force, enhance cooperation between the law enforcement communities of both countries, and thereby make a significant contribution to international law enforcement efforts. It will supersede the Extradition Treaty between the United States and Great Britain that was signed at London on December 22, 1931, which was made applicable to Barbados upon its entry into force on June 24, 1935, and which the United States and Barbados have continued to apply following Barbados becoming independent. However, that treaty has become outmoded and the new Treaty will provide significant improvements.

I recommend that the Senate give early and favorable consideration to the Treaty and give its advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 31, 1997.*

*To the Senate of the United States:*

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Extradition Treaty between the Government of the United States of America and the Government of Trinidad and Tobago, signed at Port of Spain on March 4, 1996.

In addition, I transmit, for the information of the Senate, the report of the Department of State with respect to the Treaty. As the report explains, the Treaty will not require implementing legislation.

The provisions in this Treaty follow generally the form and content of extradition treaties recently concluded by the United States.

This Treaty will, upon entry into force, enhance cooperation between the law enforcement communities of both countries and thereby make a significant contribution to international law enforcement efforts. Upon entry into force, it will supersede the Extradition Treaty between the United States and Great Britain signed at London on December 22, 1931, and made applicable to Trinidad and Tobago upon its entry into force on June 24, 1935, and which the United States and Trinidad and Tobago have continued to apply following Trinidad and Tobago's independence. That treaty has become outmoded, and the new Treaty will provide significant improvements.

I recommend that the Senate give early and favorable consideration to the Treaty and give its advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 31, 1997.*

## APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President,

pursuant to Public Law 94–304, as amended by Public Law 99–7, appoints the following Senators to the Commission on Security and Cooperation in Europe:

The Senator from Wisconsin [Mr. FEINGOLD], the Senator from Florida [Mr. GRAHAM], the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from Nevada [Mr. REID].

## AUTHORITY FOR COMMITTEES TO REPORT

Mr. WARNER. Mr. President, I ask unanimous consent that on Tuesday, August 19, committees have between the hours of 11 a.m. and 2 p.m. in order to file reported legislative and executive matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROVIDING FOR A CONSULTANT FOR THE PRESIDENT PRO TEMPORE

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. 1120, which was introduced earlier today by Senators LOTT and DASCHLE.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1120) providing for a consultant for the President pro tempore.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. WARNER. Mr. President, I further ask unanimous consent that the bill be read a third time and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1120) was deemed read the third time and passed, as follows:

S. 1120

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Section 101(a) of the Supplemental Appropriations Act, 1977 (2 U.S.C. 61h–6(a)) is amended by inserting after the first sentence the following: ''The President pro tempore of the Senate is authorized to appoint and fix the compensation of 1 consultant, on a temporary or intermittent basis, at a daily rate of compensation not in excess of that specified in the first sentence of this subsection.''.

## EARTHQUAKE HAZARDS ACT AMENDMENTS

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate now proceed to consideration of Calendar No. 141, S. 910.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 910) to authorize appropriations for carrying out the Earthquake Hazards Reduction Act of 1997 for fiscal years 1998 and 1999, and for other purposes, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

***SECTION 1. AUTHORIZATION OF APPROPRIATIONS.***

*Section 12 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706) is amended—*

*(1) in subsection (a)(7)—*

*(A) by striking ''and'' after ''1995,''; and*

*(B) by inserting before the period at the end the following: '', $20,900,000 for the fiscal year ending September 30, 1998, and $21,500,000 for the fiscal year ending September 30, 1999'';*

*(2) in subsection (b)—*

*(A) by striking ''and'' after ''September 30, 1995;'';*

*(B) by inserting before the period at the end the following: ''; $51,142,000 for the fiscal year ending September 30, 1998 of which $3,800,000 shall be used for the Global Seismic Network operated by the Agency; and $52,676,000 for the fiscal year ending September 30, 1999, of which $3,800,000 shall be used for the Global Seismic Network operated by the Agency''; and*

*(C) by adding at the end the following: ''Of the amounts authorized to be appropriated under this subsection, at least—*

*''(1) $8,000,000 of the amount authorized to be appropriated for the fiscal year ending September 30, 1998; and*

*''(2) $8,250,000 of the amount authorized for the fiscal year ending September 30, 1999,*

*shall be used for carrying out a competitive, peer-reviewed program under which the Director, in close coordination with and as a complement to related activities of the United States Geological Survey, awards grants to, or enters into cooperative agreements with, State and local governments and persons or entities from the academic community and the private sector.'';*

*(3) in subsection (c)—*

*(A) by striking ''and'' after ''September 30, 1995,''; and*

*(B) by inserting before the period at the end the following: '', (3) $18,450,000 for engineering research and $11,920,000 for geosciences research for the fiscal year ending September 30, 1998, and (4) $19,000,000 for engineering research and $12,280,000 for geosciences research for the fiscal year ending September 30, 1999''; and*

*(4) in the last sentence of subsection (d)—*

*(A) by striking ''and'' after ''September 30, 1995,''; and*

*(B) by inserting before the period at the end the following: '', $2,000,000 for the fiscal year ending September 30, 1998, and $2,060,000 for the fiscal year ending September 30, 1999''.*

***SEC. 2. AUTHORIZATION OF REAL-TIME SEISMIC HAZARD WARNING SYSTEM DEVELOPMENT, AND OTHER ACTIVITIES.***

*(a) AUTOMATIC SEISMIC WARNING SYSTEM DEVELOPMENT.—*

*(1) DEFINITIONS.—In this section:*

*(A) DIRECTOR.—The term ''Director'' means the Director of the United States Geological Survey.*

*(B) HIGH-RISK ACTIVITY.—The term ''high-risk activity'' means an activity that may be adversely affected by a moderate to severe seismic event (as determined by the Director). The term includes high-speed rail transportation.*

*(C) REAL-TIME SEISMIC WARNING SYSTEM.—The term ''real-time seismic warning system'' means a system that issues warnings in real-time from a network of seismic sensors to a set of analysis processors, directly to receivers related to high-risk activities.*

*(2) IN GENERAL.—The Director shall conduct a program to develop a prototype real-time seismic warning system. The Director may enter into such agreements or contracts as may be necessary to carry out the program.*

*(3) UPGRADE OF SEISMIC SENSORS.—In carrying out a program under paragraph (2), in order to increase the accuracy and speed of seismic event analysis to provide for timely warning signals, the Director shall provide for the upgrading of the network of seismic sensors participating in the prototype to increase the capability of the sensors—*

*(A) to measure accurately large magnitude seismic events (as determined by the Director); and*

*(B) to acquire additional parametric data.*

*(4) DEVELOPMENT OF COMMUNICATIONS AND COMPUTATION INFRASTRUCTURE.—In carrying out a program under paragraph (2), the Director shall develop a communications and computation infrastructure that is necessary—*

*(A) to process the data obtained from the upgraded seismic sensor network referred to in paragraph (3); and*

*(B) to provide for, and carry out, such communications engineering and development as is necessary to facilitate—*

*(i) the timely flow of data within a real-time seismic hazard warning system; and*

*(ii) the issuance of warnings to receivers related to high-risk activities.*

*(5) PROCUREMENT OF COMPUTER HARDWARE AND COMPUTER SOFTWARE.—In carrying out a program under paragraph (2), the Director shall procure such computer hardware and computer software as may be necessary to carry out the program.*

*(6) REPORTS ON PROGRESS.—*

*(A) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Director shall prepare and submit to Congress a report that contains a plan for implementing a real-time seismic hazard warning system.*

*(B) ADDITIONAL REPORTS.—Not later than 1 year after the date on which the Director submits the report under subparagraph (A), and annually thereafter, the Director shall prepare and submit to Congress a report that summarizes the progress of the Director in implementing the plan referred to in subparagraph (A).*

*(7) AUTHORIZATION OF APPROPRIATIONS.—In addition to the amounts made available to the Director under section 12(b) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(b)), there are authorized to be appropriated to the Department of the Interior, to be used by the Director to carry out paragraph (2), $3,000,000 for each of fiscal years 1998 and 1999.*

*(b) SEISMIC MONITORING NETWORKS ASSESSMENT.—*

*(1) IN GENERAL.—The Director shall provide for an assessment of regional seismic monitoring networks in the United States. The assessment shall address—*

*(A) the need to update the infrastructure used for collecting seismological data for research and monitoring of seismic events in the United States;*

*(B) the need for expanding the capability to record strong ground motions, especially for urban area engineering purposes;*

*(C) the need to measure accurately large magnitude seismic events (as determined by the Director);*

*(D) the need to acquire additional parametric data; and*

*(E) projected costs for meeting the needs described in subparagraphs (A) through (D).*

*(2) RESULTS.—The Director shall transmit the results of the assessment conducted under this subsection to Congress not later than 1 year after the date of enactment of this Act.*

*(c) EARTH SCIENCE TEACHING MATERIALS.—*

*(1) DEFINITIONS.—In this subsection:*

*(A) LOCAL EDUCATIONAL AGENCY.—The term ''local educational agency'' has the meaning given that term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).*

*(B) SCHOOL.—The term ''school'' means a nonprofit institutional day or residential school that provides education for any of the grades kindergarten through grade 12.*

*(2) TEACHING MATERIALS.—In a manner consistent with the requirement under section*

*5(b)(4) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704(b)(4)) and subject to a merit based competitive process, the Director of the National Science Foundation may use funds made available to him or her under section 12(c) of such Act (42 U.S.C. 7706(c)) to develop, and make available to schools and local educational agencies for use by schools, at a minimal cost, earth science teaching materials that are designed to meet the needs of elementary and secondary school teachers and students.*

*(d) IMPROVED SEISMIC HAZARD ASSESSMENT.—*

*(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Director shall conduct a project to improve the seismic hazard assessment of seismic zones.*

*(2) REPORTS.—*

*(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and annually during the period of the project, the Director shall prepare, and submit to Congress, a report on the findings of the project.*

*(B) FINAL REPORT.—Not later than 60 days after the date of termination of the project conducted under this subsection, the Director shall prepare and submit to Congress a report concerning the findings of the project.*

*(e) STUDY OF NATIONAL EARTHQUAKE EMERGENCY TRAINING CAPABILITIES.—*

*(1) IN GENERAL.—The Director of the Federal Emergency Management Agency shall conduct an assessment of the need for additional Federal disaster-response training capabilities that are applicable to earthquake response.*

*(2) CONTENTS OF ASSESSMENT.—The assessment conducted under this subsection shall include—*

*(A) a review of the disaster training programs offered by the Federal Emergency Management Agency at the time of the assessment;*

*(B) an estimate of the number and types of emergency response personnel that have, during the period beginning on January 1, 1990 and ending on July 1, 1997, sought the training referred to in subparagraph (A), but have been unable to receive that training as a result of the oversubscription of the training capabilities of the Federal Emergency Management Agency; and*

*(C) a recommendation on the need to provide additional Federal disaster-response training centers.*

*(3) REPORT.—Not later than 180 days after the date of enactment of this Act, the Director shall prepare and submit to Congress a report that addresses the results of the assessment conducted under this subsection.*

***SEC. 3. COMPREHENSIVE ENGINEERING RESEARCH PLAN.***

*(a) NATIONAL SCIENCE FOUNDATION.—Section 5(b)(4) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704(b)(4)) is amended—*

*(1) by striking ''and'' at the end of subparagraph (D);*

*(2) by striking the period at the end of subparagraph (E) and inserting ''; and ''; and*

*(3) by adding at the end the following:*

*''(F) develop, in conjunction with the Federal Emergency Management Agency, the National institute of Standards and Technology, and the United States Geological Survey, a comprehensive plan for earthquake engineering research to effectively use existing testing facilities and laboratories (in existence at the time of the development of the plan), upgrade facilities and equipment as needed, and integrate new, innovative testing approaches to the research infrastructure in a systematic manner.''.*

*(b) FEDERAL EMERGENCY MANAGEMENT AGENCY.—Section 5(b)(1) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704(b)(1)) is amended—*

*(1) by striking ''and'' at the end of subparagraph (D);*

*(2) by striking the period at the end of subparagraph (E) and inserting ''; and''; and*

*(3) by adding at the end the following:*

*''(F) work with the National Science Foundation, the National institute of Standards and Technology, and the United States Geological Survey, to develop a comprehensive plan for earthquake engineering research to effectively use existing testing facilities and laboratories (existing at the time of the development of the plan), upgrade facilities and equipment as needed, and integrate new, innovative testing approaches to the research infrastructure in a systematic manner.''.*

*(c) UNITED STATES GEOLOGICAL SURVEY.—Section 5(b)(3) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704(b)(3)) is amended—*

*(1) by striking ''and'' at the end of subparagraph (E);*

*(2) by striking the period at the end of subparagraph (G) and inserting ''; and''; and*

*(3) by adding at the end the following:*

*''(H) work with the National Science Foundation, the Federal Emergency Management Agency, and the National Institute of Standards and Technology to develop a comprehensive plan for earthquake engineering research to effectively use existing testing facilities and laboratories (in existence at the time of the development of the plan), upgrade facilities and equipment as needed, and integrate new, innovative testing approaches to the research infrastructure in a systematic manner.''.*

*(d) NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.—Section 5(b)(5) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704(b)(5)) is amended—*

*(1) by striking ''and'' at the end of subparagraph (B);*

*(2) by striking the period at the end of subparagraph (C) and inserting ''; and''; and*

*(3) by adding at the end the following:*

*''(D) work with the National Science Foundation, the Federal Emergency Management Agency, and the United States Geological Survey to develop a comprehensive plan for earthquake engineering research to effectively use existing testing facilities and laboratories (in existence at the time of the development of the plan), upgrade facilities and equipment as needed, and integrate new, innovative testing approaches to the research infrastructure in a systematic manner.''.*

***SEC. 4. REPEALS.***

*Sections 6 and 7 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7705 and 7705a) are repealed.*

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I rise today to reaffirm my support for the 1998–1999 Reauthorization of the Earthquake Hazard Reduction Act of 1977.

I think we can all agree that the goal of the National Earthquake Hazard Reduction Program is a prime example of the proper role for government. In this bill we are calling for continued effort in the areas of public education, fundamental earth science research, development of better materials and building practices, and other activities that reduce the risk to life and property.

This bill contains a provision that builds upon the national seismic network, improving its capability and forming the basis for a real-time seismic hazard warning system. A real-time warning system has the potential to save lives by alerting people outside the immediate area of an impending seismic shock. Advance warning can be critical in preventing injury by giving communities time to curtail high risk activities such as high-speed rail transportation, as well as shutoff of selected gas, electrical and water feeders to the effected area. This is pivotal in limiting the collateral damage caused after an earthquake by fire.

As we have all seen by the devastation in Northridge, CA, the consequences of an earthquake are simply too important for a region to be lulled into a false sense of safety. This point was brought home to me when I heard that an earthquake had struck Chattanooga. Certainly, not by any means, a large event, but a reminder, that the threat of earthquakes occur throughout the Nation.

We have also included an important provision which underscores our commitment to education. This bill would let NSF create and disseminate earth science educational materials in a way that permits easy access by educators and the general public. Acknowledging that FEMA and NSF have both done an outstanding job in creating educational material, we are looking for continued cooperation of all the agencies, one of the hallmarks of the National Earthquake Hazard Reduction Program [NEHRP].

To speed the process of moving this important legislation forward, I offer a technical amendment which brings the funding authority for USGS to the same level reflected in the House of Representatives version of this bill. The adoption of this amendment should reduce the time it will take for this important legislation to become law.

Mr. President, I believe that the passage of this legislation will continue of the good work that these four agencies have been undertaking—work that saves property, but most importantly, saves American lives.

Mr. HOLLINGS. Mr President, I rise today in support of passage of S. 910, a bill to reauthorize appropriations for the Earthquake Hazards Reduction Act. Catastrophic earthquakes are inevitable in the United States. Scientists consider California to be the most likely location for major earthquakes; however, all or parts of 39 states—populated by more than 70 million people—have been classified as having major or moderate seismic risk. Earthquakes are not uncommon in Alaska, Idaho, Utah, and Nevada. Major earthquakes east of the Rockies are infrequent but can prove devastating. In 1811–12, three huge earthquakes rocked the New Madrid area of Missouri, near St. Louis and Memphis. These earthquakes were so powerful that they changed the course of the Mississippi River and rang bells in Boston. In 1886, an earthquake leveled my hometown of Charleston. Estimates of the strength of the Charleston quake range from 7.0 to 7.6 on the Richter Scale. Of particular interest and concern about the east coast quakes is that there is no known geological origin for them. This fact underscores the

possibility of unpredictable seismic activity in the United States.

What we do know, though, is that the loss of life and property from earthquakes can be considerable. For example, the January 17, 1994, earthquake at Northridge, CA, was classified as only ''moderate'' in magnitude. Nonetheless, 57 people died, and injuries totaled over 6,500. In addition, insurance payments for this moderate event were over $6 billion, and the Federal supplemental appropriation totaled another $9 billion. The Northridge has become the second most expensive natural disaster in American history, exceeded only by Hurricane Andrew. Reducing damage from earthquakes would not only save lives but also save both private insurers and the Federal Government considerable amounts of money.

That is what NEHRP, National Earthquake Hazards Reduction Program, established by the Earthquake Hazards Reduction Act of 1977, is designed to do. It is a Federal interagency program designed to help minimize the loss of life and property caused by earthquakes. It supports scientific research on the origins of earthquakes, and funds engineering research to make buildings and other structures more seismically resistant. NEHRP also disseminates this technical information to the states, and helps states and localities prepare for earthquakes. NEHRP focuses on helping states prepare for earthquakes, in contrast to Federal disaster response programs that help states after a major event.

The Northridge earthquake illustrates both NEHRP's accomplishments and what some observers believe are continuing problems.

The most important accomplishment was the survival of most of the buildings and highway overpasses which were built to meet new seismic codes or retrofitted to meet those codes. For example, highway bridges designed using standards developed after the late 1970s performed very well. The most dramatic story concerns the retrofit of older highway overpasses. After the Loma Prieta earthquake in Northern California in 1989, university researchers and Federal engineers, using NEHRP funds, undertook a crash program to develop new ways to retrofit older highway bridges and began applying those retrofit techniques to overpasses in Southern California. At Northridge, six major highway bridges collapsed. While further study is needed, it appears that the older overpasses that were retrofitted survived, while those that did not often failed.

Northridge also illustrated some continuing problems such as the strength of ''lifelines''—water line, natural gas pipelines, electrical lines, and so forth. Little research has been done to date on how to make these facilities more earthquake-resistant. Dramatic film from Northridge showed flooded streets with shooting jets of burning natural gas and illustrated how easily these lines are broken.

Mr. President, S. 910 will authorize the funding needed to continue the good work that has been done by the four participating agencies in NEHRP—the Federal Emergency Management Agency, the U.S. Geological Survey, the National Science Foundation, and the National Institute of Standards and Technology—and will allow them to address problems like ruptured lifelines that continue to plague disaster response teams.

This bill also will require new assessments of our seismic hazard warning systems, and our earthquake emergency training facilities to ensure that the warning systems and training facilities are up to date, properly operating, and responsive. In assessing the current conditions of the seismic monitoring networks, the agencies are expected to pay greater attention to understudied areas like the eastern seaboard where catastrophic seismic events have occurred in the past, and are predicted to occur in the future—yet are more difficult to understand.

This is a good bill. I commend the Senator from Tennessee for his diligence in this area, and I encourage my colleagues to support passage of this measure today.

AMENDMENT NO. 1054

(Purpose: To increase the authorization for the United States Geological Survey for 1998 and 1999.)

Mr. WARNER. Mr. President, Senator FRIST has an amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. FRIST, proposes an amendment numbered 1054.

Mr. WARNER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 9, line 19, strike ''$51,142,000'' and insert ''$52,565,000''.

On page 9, line 22, strike ''$52,676,000'' and insert ''$54,052,000''.

Mr. WARNER. Mr. President, I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 1054) was agreed to.

Mr. WARNER. Mr. President, I ask unanimous consent that the bill be considered read a third time and passed, as amended, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 910), as amended, was deemed read the third time and passed.

(The text of S. 910, as passed, will be printed in a future edition of the RECORD.)

## CONVEYANCE OF BLM LAND TO GRANTS PASS, OR

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 135, H.R. 1198.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1198) to direct the Secretary of the Interior to convey certain land to the City of Grants Pass, Oregon.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. WARNER. Mr. President, I ask unanimous consent that the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 1198) was deemed read the third time and passed.

## WARNER CANYON SKI HILL LAND EXCHANGE ACT OF 1997

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 136, H.R. 1944.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1944) to provide for a land exchange involving the Warner Canyon Ski Area and other land in the State of Oregon.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. WYDEN. Mr. President, I urge the Senate to pass the bill H.R. 1944, authorizing an exchange of lands between the U.S. Forest Service, the U.S. Fish and Wildlife Service, and Lake County, OR.

My colleague from Oregon, Senator SMITH, joined me in introducing S. 881 on June 11. The chairman of the Energy and Natural Resources Committee, Senator MURKOWSKI, was extremely helpful and the bill was included in a hearing on various land exchange bills on June 18th. The U.S. House passed the companion measure, sponsored by the chairman of the House Agriculture Committee, Congressman SMITH, on July 22. The Energy Committee reported the House bill yesterday, and I greatly appreciate the Chairman's excellent work to bring the bill to floor for final passage today.

This legislation will go far to keep the Warner Canyon Ski Area of Lakeview, OR, in business. If ever there was such a thing as a community ski area, this is it. It is low tech. It is run by a non-profit local organization. This legislation is clearly in the public interest of Lakeview, OR, and the Nation.

This bill has important benefits to the Hart Mountain Antelope Refuge, as well. Management of our National Wildlife Refuges can be burdened when there are privately owned lands inside of a refuge boundary, and this measure allows the refuge to take ownership to more than 300 acres of county owned lands inside the refuge. With this acquisition we move closer to the permanent protection of this important Oregon wildlife refuge.

I was pleased to be joined in this effort by Senator GORDON SMITH, and I urge its passage.

Mr. WARNER. Mr. President, I ask unanimous consent that the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 1944) was deemed read the third time and passed.

## REGARDING SENATE FLOOR ACCESS FOR INDIVIDUALS WITH DISABILITIES

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 110, which was reported by the Rules Committee.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 110) to permit an individual with a disability with access to the Senate floor to bring necessary supporting aids and services.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. WYDEN. Mr. President, I first wish to thank the chairman of the Rules Committee, the Senator from Virginia [Mr. WARNER], for his cooperation in moving forward with such an extremely important matter. Because of its significance, I think it would be useful for us to engage in a colloquy to enlighten the Senate further as to the intent of this resolution.

It is my understanding that the purpose of this resolution is to clarify that individuals with disabilities who have been given the privilege of access to the Senate floor under rule XXIII of the Standing Rules of the Senate may bring necessary supporting aids or services onto the floor. This will ensure that the staff of a Senator wishes to have on the floor will not be denied the privilege of the floor because the staffer happens to use a guide dog or a wheelchair. This resolution is intended to be broadly interpreted to cover all individuals with disabilities. Is my understanding correct that this is the purpose of the resolution?

Mr. WARNER. That is correct. By adopting this resolution, the Senate hopes to be a model for the country in its treatment of individuals with disabilities. The Senate intends to be nondiscriminatory and accommodate the needs of individuals with disabilities who may use supporting aids or services. For purposes of this resolution, individuals with disabilities are those who have a physical or mental impairment that substantially limits one or more of the major life activities, and supporting aids and services are not intended to be limited to the illustrative examples provided in the resolution.

Mr. WYDEN. The resolution also contains a condition on the use of supporting aids and services where such use would place a significant difficulty or expense on the operations of the Senate. Is my understanding correct that this undue burden language is intended to apply only in very unusual circumstances, such as where significant architectural modifications might be necessary?

Mr. WARNER. That is correct. This modifying language would apply only in extreme circumstances.

Mr. WYDEN. I have one final question: is my understanding correct that the Rules Committee has written a letter of guidance to assist the Sergeant at Arms in interpreting and implementing this resolution?

Mr. WARNER. That is correct. The Rules Committee will send a letter of guidance to the Sergeant at Arms that should be used in interpreting the resolution.

Mr. WYDEN. I again want to express my appreciation to the Senator from Virginia, the chairman of the Rules Committee, for his commitment to this issue and thank the Rules Committee for moving this resolution to the floor.

Mr. WARNER. Mr. President, I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 110) was agreed to as follows:

S. RES. 110

*Resolved,* That an individual with a disability who has or is granted the privilege of the Senate floor under rule XXIII of the Standing Rules of the Senate may bring necessary supporting aids and services (including service dogs, wheelchairs, and interpreters) on the Senate floor, unless the Senate Sergeant at Arms determines that the use of such supporting aids and services would place a significant difficulty or expense on the operations of the Senate in accordance with paragraph 2 of rule 4 of the Rules for Regulation of the Senate Wing of the United States Capitol.

## RELIEF OF JOHN WESLEY DAVIS

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 584.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 584) for the relief of John Wesley Davis.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. WARNER. Mr. President, I ask unanimous consent that the bill be read three times, passed, and the motion to reconsider be laid upon the table, and any statements relating thereto be included in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 584) was deemed read the third time and passed.

## INDIAN INDEPENDENCE DAY: A NATIONAL DAY OF CELEBRATION OF INDIAN AND AMERICAN DEMOCRACY

Mr. WARNER. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 102, and the Senate proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 102) designating August 15, 1997, as ''Indian Independence Day: A National Day of Celebration of Indian and American Democracy.''

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. WARNER. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 102) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 102

Whereas India is the world's largest democracy and shares with the United States the system in which the supreme power to govern is invested in the people;

Whereas the people of India drew upon the values of the rule of law creating a representative democracy;

Whereas India and the United States share a common bond of being former British colonies;

Whereas India's independence was achieved pledged to the principles of fairness, dignity, peace, and democracy;

Whereas these and other ideals have forged a close bond between our two nations and their peoples;

Whereas August 15, 1997 marks the 50th anniversary of the end of the struggle which freed the Indian people from British colonial rule; and

Whereas it is proper and desirable to celebrate with the Indian people, and to reaffirm

the democratic principles on which our two great nations were born: Now, therefore, be it

*Resolved*, That August 15, 1997 is designated as ''Indian Independence Day: A National Day of Celebration of Indian and American Democracy''. The President is requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities.

## PROVIDING FOR AUTHORIZATION OF APPROPRIATIONS IN EACH FISCAL YEAR FOR ARBITRATION IN UNITED STATES DISTRICT COURTS

Mr. WARNER. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 996, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (S. 996) to provide for the authorization of appropriations in each fiscal year for arbitration in United States district courts.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1055

(Purpose: To provide for the reauthorization of report requirements to enhance judicial information dissemination, and for other purposes)

Mr. WARNER. Mr. President, I send an amendment to the desk on behalf of Senator BIDEN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. BIDEN, proposes amendment numbered 1055.

Mr. WARNER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

at the end of the bill, add the following new section:

**SEC. 2. ENHANCEMENT OF JUDICIAL INFORMATION DISSEMINATION.**

Section 103(b)(2) of the Civil Justice Reform Act of 1990 (Public Law 101–650; 104 Stat. 5096; 28 U.S.C. 471 note) is amended—

(1) by inserting ''(A)'' after ''(2)'';

(2) by striking ''sections 471 through 478'' and inserting ''sections 472, 473, 474, 475, 477, and 478''; and

(3) by adding at the end the following new subparagraph:

''(B) The requirements set forth in section 476 of title 28, United States Code, as added by subsection (a), shall remain in effect permanently.''.

Mr. BIDEN. Mr. President, the Civil Justice Reform Act of 1990 established a process for developing new discovery and case management procedures designed to reduce costs and delay in Federal litigation.

My amendment to S. 996 would make permanent one very successful reform from the Civil Justice Reform Act—the requirement that a list of each Federal judge's 6-month-old motions and 3-year-old cases be published and disseminated twice every year.

According to the Rand Institute for Civil Justice, this public reporting requirement led to a 25 percent reduction in the number of cases pending more than 3 years in the Federal system, even though the total number of cases filed during the 4-year study period actually increased—proving again that Justice Brandeis was correct in saying that ''sunlight is the best disinfectant.''

This very effective reporting requirement will expire in December unless Congress acts. With my amendment, I seek to extend this reporting requirement.

This amendment marks the first step in implementing the findings of the studies called for by the original Civil Justice Reform Act. The Rand study of the pilot projects set up by the act found that early judicial supervision of the discovery process can both reduce delay and litigation costs. These and other procedural reforms ought to be incorporated into the everday practices of our Federal bench to produced savings for the taxpayers and increase the efficiency of our Federal courts.

I intend to continue working with my colleagues on the Judiciary Committee, as well as the Judicial Conference, to search for and implement improvements in our Federal civil justice system.

Mr. WARNER. Mr. President, I ask unanimous consent that the amendment be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered, the amendment is agreed to.

The amendment (No. 1055) was agreed to.

Mr. WARNER. Mr. President, I ask unanimous consent that the bill, as amended, be read three times, passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 996), as amended, was passed as follows:

S. 996

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. ARBITRATION IN DISTRICT COURTS.**

Section 905 of the Judicial Improvements and Access to Justice Act (28 U.S.C. 651 note) is amended in the first sentence by striking ''for each of the fiscal years 1994 through 1997'' and inserting ''for each fiscal year''.

**SEC. 2. ENHANCEMENT OF JUDICIAL INFORMATION DISSEMINATION.**

Section 103(b)(2) of the Civil Justice Reform Act of 1990 (Public Law 101–650; 104 Stat. 5096; 28 U.S.C. 471 note) is amended—

(1) by inserting ''(A)'' after ''(2)'';

(2) by striking ''sections 471 through 478'' and inserting ''sections 472, 473, 474, 475, 477, and 478''; and

(3) by adding at the end the following new subparagraph:

''(B) The requirements set forth in section 476 of title 28, United States Code, as added by subsection (a), shall remain in effect permanently.''.

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry treaties and nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## REPORT RELATIVE TO THE CONTINUATION OF IRAQI EMERGENCY—MESSAGE FROM THE PRESIDENT—PM 58

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

*To the Congress of the United States:*

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the Iraqi emergency is to continue in effect beyond August 2, 1997, to the *Federal Register* for publication.

The crisis between the United States and Iraq that led to the declaration on August 2, 1990, of a national emergency has not been resolved. The Government of Iraq continues to engage in activities inimical to the stability in the Middle East and hostile to United States interests in the region. Such Iraqi actions pose a continuing unusual and extraordinary threat to the national security and vital foreign policy interests of the United States. For these reasons, I have determined that it is necessary to maintain in force the broad authorities necessary to apply economic pressure on the Government of Iraq.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 31, 1997.*

## REPORT RELATIVE TO THE NATIONAL EMERGENCY WITH RESPECT TO IRAQ—MESSAGE FROM THE PRESIDENT—PM 59

The PRESIDING OFFICER laid before the Senate the following message

from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

*To the Congress of the United States:*

I hereby report to the Congress on the developments since my last report of February 10, 1997, concerning the national emergency with respect to Iraq that was declared in Executive Order 12722 of August 2, 1990. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c).

This report discusses only matters concerning the national emergency with respect to Iraq that was declared in Executive Order 12722 and matters relating to Executive Orders 12724 and 12817 (the ''Executive Orders''). The report covers events from February 2 through August 1, 1997.

Executive Order 12722 ordered the immediate blocking of all property and interests in property of the Government of Iraq (including the Central Bank of Iraq) then or thereafter located in the United States or within the possession or control of a United States person. That order also prohibited the importation into the United States of goods and services of Iraqi origin, as well as the exportation of goods, services, and technology from the United States to Iraq. The order prohibited travel-related transactions to or from Iraq and the performance of any contracting support of any industrial, commercial, or governmental project in Iraq. United States persons were also prohibited from granting or extending credit or loans to the Government of Iraq.

The foregoing prohibitions (as well as the blocking of Government of Iraq property) were continued and augmented on August 9, 1990, by Executive Order 12724, which was issued in order to align the sanctions imposed by the United States with United Nations Security Council Resolution (UNSCR) 661 of August 6, 1990.

1. In April 1995, the U.N. Security Council adopted UNSCR 986 authorizing Iraq to export up to $1 billion in petroleum and petroleum products every 90 days for a total of 180 days under U.N. supervision in order to finance the purchase of food, medicine, and other humanitarian supplies. UNSCR 986 includes arrangements to ensure equitable distribution of humanitarian goods purchased with UNSCR 986 oil revenues to all the people of Iraq. The resolution also provides for the payment of compensation to victims of Iraqi aggression and for the funding of other U.N. activities with respect to Iraq. On May 20, 1996, a memorandum of understanding was concluded between the Secretariat of the United Nations and the Government of Iraq agreeing on terms for implementing UNSCR 986. On August 8, 1996, the UNSC committee established pursuant to UNSCR 661 (''the 661 Committee'') adopted procedures to be employed by the 661 Committee in implementation of UNSCR 986. On December 9, 1996, the Secretary General released the report requested by paragraph 13 of UNSCR 986, making UNSCR 986 effective as of 12:01 a.m. December 10.

On June 4, 1997, the U.N. Security Council adopted UNSCR 1111, renewing for another 180 days the authorization for Iraqi petroleum sales contained in UNSCR 986 of April 14, 1995. The Resolution became effective on June 8, 1997. During the reporting period, imports into the United States under this program totaled approximately 9.5 million barrels.

2. There have been no amendments to the Iraqi Sanctions Regulations, 31 C.F.R. Part 575 (the ''ISR'' or the ''Regulations'') administered by the Office of Foreign Assets Control (OFAC) of the Department of the Treasury during the reporting period.

As previously reported, the Regulations were amended on December 10, 1996, to provide a statement of licensing policy regarding specific licensing of United States persons seeking to purchase Iraqi-origin petroleum and petroleum products from Iraq (61 Fed. Reg. 65312, December 11, 1996). Statements of licensing policy were also provided regarding sales of essential parts and equipment for the Kirkuk-Yumurtalik pipeline systems, and sales of humanitarian goods to Iraq, pursuant to United Nations approval. A general license was also added to authorize dealings in Iraqi-origin petroleum and petroleum products that have been exported from Iraq with the United Nations and United States Government approval.

All executory contracts must contain terms requiring that all proceeds of the oil purchases from the Government of Iraq, including the State Oil Marketing Organization, must be placed in the U.N. escrow account at Banque National de Paris, New York (the ''986 escrow account''), and all Iraqi payments for authorized sales of pipeline parts and equipment, humanitarian goods, and incidental transaction costs borne by Iraq will, upon arrival by the 661 Committee, be paid or payable out of the 986 escrow account.

3. Investigations of possible violations of the Iraqi sanctions continue to be pursued and appropriate enforcement actions taken. Several cases from prior reporting periods are continuing and recent additional allegations have been referred by the Office of Foreign Assets Control (OFAC) to the U.S. Customs Service for Investigation.

On July 10, 1995, an indictment was brought against three U.S. citizens in the Eastern District of New York for conspiracy in a case involving the attempted exportation and transshipment to Iraq of zirconium ingots in violation of the IEEPA and the ISR. The intended use of the merchandise was the manufacture of cladding for radioactive materials to be used in nuclear reactors. The case was the culmination of a successful undercover operation conducted by agents of the U.S. Customs Service in New York in cooperation with OFAC and the U.S. Attorney's Office for the Eastern District of New York. On February 6, 1997, one of the defendants pled guilty to a 10-count criminal indictment including conspiracy to violate the Iraqi Sanctions and the IEEPA. The trial of the remaining defendants is ongoing.

Investigation also continues into the roles played by various individuals and firms outside Iraq in the Iraqi government procurement network. These investigations may lead to additions to OFAC's listing of individuals and organizations determined to be Specially Designated Nationals (SDNs) of the Government of Iraq.

Since my last report, OFAC collected four civil monetary penalties totaling more than $470,000 for violations of IEEPA and the ISR. The violations involved brokerage firms' failure to block assets of an Iraqi SDN and effecting certain securities trades with respect thereto. Additional administrative proceedings have been initiated and others await commencement.

4. The Office of Foreign Assets Control has issued a total of 700 specific licenses regarding transactions pertaining to Iraq or Iraqi assets since August 1990. Licenses have been issued for transactions such as the filing of legal action against Iraqi governmental entities, legal representation of Iraq, and the exportation to Iraq of donated medicine, medical supplies, and food intended for humanitarian relief purposes, executory contracts pursuant to UNSCR 986, sales of humanitarian supplies to Iraq under UNSCR 986, the execution of powers of attorney relating to the administration of personal assets and decedents' estates in Iraq and the protection of preexistent intellectual property rights in Iraq. Since my last report, 47 specific licenses have been issued.

5. The expense incurred by the Federal Government in the 6-month period from February 2 through August 1, 1997, that are directly attributable to the exercise of powers and authorities conferred by the declaration of a national emergency with respect to Iraq are reported to be about $1.2 million, most of which represents wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the U.S. Customs Service, the Office of the Under Secretary for Enforcement, and the Office of the General Counsel), the Department of State (particularly the Bureau of Economic and Business Affairs, the Bureau of Near Eastern Affairs, the Bureau of International Organization Affairs, the Bureau of Political-Military Affairs, the Bureau of Intelligence and Research, the U.S. Mission to the United Nations, and the Office of the Legal

Advisor), and the Department of Transportation (particularly the U.S. Coast Guard).

6. The United States imposed economic sanctions on Iraq in response to Iraq's illegal invasion and occupation of Kuwait, a clear act of brutal aggression. The United States, together with the international community, is maintaining economic sanctions against Iraq because the Iraqi regime has failed to comply fully with relevant United Nations Security Council resolutions. Security Council Resolutions on Iraq call for the elimination of Iraqi weapons of mass destruction, Iraqi recognition of Kuwait and the inviolability of the Iraq-Kuwait boundary, the release of Kuwaiti and other third-country nationals, compensation for victims of Iraqi aggression, long-term monitoring of weapons of mass destruction capabilities, the return of Kuwaiti assets stolen during Iraq's illegal occupation of Kuwait, renunciation of terrorism, an end to internal Iraqi repression of its own civilian population, and the facilitation of access of international relief organizations to all those in need in all parts of Iraq. Seven years after the invasion, a pattern of defiance persists: a refusal to account for missing Kuwaiti detainees; failure to return Kuwaiti property worth millions of dollars, including military equipment that was used by Iraq in its movement of troops to the Kuwaiti border in October 1994; sponsorship of assassinations in Lebanon and in northern Iraq; incomplete declarations to weapons instructors and refusal of unimpeded access by these inspectors; and ongoing widespread human rights violations. As a result, the U.N. sanctions remain in place; the United States will continue to enforce those sanctions under domestic authority.

The Baghdad government continues to violate basic human rights of its own citizens through the systematic repression of minorities and denial of humanitarian assistance. The Government of Iraq has repeatedly said it will not be bound by UNSCR 668. The Iraqi military routinely harasses residents of the north, and has attempted to ''Arabize'' the Kurdish, Turcomen, and Assyrian areas in the north. Iraq has not relented in its artillery attacks against civilian population centers in the south, or in its burning and draining operations in the southern marshes, which have forced thousands to flee to neighboring states.

The policies and actions of the Saddam Hussein regime continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States, as well as to regional peace and security. The U.N. resolutions affirm that the Security Council must be assured of Iraq's peaceful intentions in judging its compliance with sanctions. Because of Iraq's failure to comply fully with these resolutions, the United States will continue to apply economic sanctions to deter it from threatening peace and stability in the region.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 31, 1997.*

## MESSAGES FROM THE HOUSE

At 9:46 a.m., a message from the House of Representatives, delivered by one of its reading clerks, Mr. Hays, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 133. Concurrent resolution expressing the sense of the Congress regarding the terrorist bombing in the Jerusalem market on July 30, 1997.

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At 4:18 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2014) to provide for reconciliation pursuant to subsections (b)(2) and (d) of section 105 of the concurrent resolution on the budget for fiscal year 1998.

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At 5:26 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 90. Joint resolution waiving certain enrollment requirements with respect to specified bills of the One Hundred Fifth Congress.

The message also announced that the House agrees to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 136. Concurrent resolution providing for an adjournment of the two Houses.

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At 6:10 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 408) to amend the Marine Mammal Protection Act of 1972 to support the International Dolphin Conservation Program in the eastern tropical Pacific Ocean, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 138. Concurrent resolution to correct technical errors in the enrollment of the bill H.R. 2014.

## ENROLLED JOINT RESOLUTION SIGNED

A message from the House of Representatives, delivered by one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 90. Joint resolution waiving certain enrollment requirements with respect to specified bills of the One Hundred Fifth Congress.

The enrolled joint resolution was signed subsequently by the President pro tempore (Mr. THURMOND).

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2669. A communication from the Director of the U.S. Office of Personnel Management, transmitting, pursuant to law, a rule entitled ''Federal Employees Health Benefits Program: Opportunities to Enroll and Change Enrollment'' received on July 21, 1997; to the Committee on Governmental Affairs.

EC–2670. A communication from the Director of the U.S. Office of Personnel Management, transmitting, pursuant to law, a report on Physicians Comparability Allowances; to the Committee on Governmental Affairs.

EC–2671. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the report under the Inspector General Act for the period October 1, 1996 through March 31, 1997; to the Committee on Governmental Affairs.

EC–2672. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report entitled ''1997 Federal Financial Management Status Report and Five-Year Plan''; to the Committee on Governmental Affairs.

EC–2673. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, the report of the Panama Canal Commission's financial statements for fiscal years 1995 and 1996; to the Committee on Governmental Affairs.

EC–2674. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a list of General Accounting Office reports for June 1997; to the Committee on Governmental Affairs.

EC–2675. A communication from the Inspector General of the Corporation for National and Community Service, transmitting, pursuant to law, a report on the follow-up study to the auditability survey (Phase 2); to the Committee on Governmental Affairs.

EC–2676. A communication from the Director of Benefits, Farm Credit Bank of Texas, transmitting, pursuant to law, the annual report for the pension plan for calendar year 1996; to the Committee on Governmental Affairs.

EC–2677. A communication from the Employee Benefits Manager, Farm Credit Bank, transmitting, pursuant to law, the annual report for the pension plan for calendar year 1996; to the Committee on Governmental Affairs.

EC–2678. A communication from the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12–95 adopted by the Council on June 3, 1997; to the Committee on Governmental Affairs.

EC–2679. A communication from the Special Counsel, transmitting, pursuant to law, the Annual Report from the U.S. Office of Special Counsel for fiscal year 1996; to the Committee on Governmental Affairs.

EC–2680. A communication from the Deputy Associate Administrator for Acquisition Policy, U.S. General Services Administration, Office of Governmentwide Policy, transmitting, pursuant to law, a report of a rule relative to acquisition regulation (RIN3090–AG30), received on July 16, 1997; to the Committee on Governmental Affairs.

EC–2681. A communication from the Executive Director, Committee for Purchase from People Who are Blind or Severely Disabled, transmitting, pursuant to law, a rule relative to a list of commodities and services to be furnished, received on July 29, 1997; to the Committee on Governmental Affairs.

EC–2682. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Secretary's Management Report for fiscal year 1997 under the Inspector General Act; to the Committee on Governmental Affairs.

EC–2683. A communication from the Administrator, U.S. Small Business Administration, transmitting, pursuant to law, the Semiannual Report on Final Actions for fiscal year 1997; to the Committee on Governmental Affairs.

EC–2684. A communication from the Executive Director, District of Columbia Financial Responsibility and Management Assistance Authority, transmitting, pursuant to law, a report relative to operating and capital budget books for fiscal year 1998; to the Committee on Governmental Affairs.

EC–2685. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled ''Health, United States, 1996–97''; to the Committee on Labor and Human Resources.

EC–2686. A communication from the Assistant General Counsel for Regulations, U.S. Department of Education, transmitting, pursuant to law, a rule relative to direct grant programs (RIN1880–AA76), received on July 25, 1997; to the Committee on Labor and Human Resources.

EC–2687. A communication from the Director, Regulations Policy Management Staff, Office of Policy Food and Drug Administration, Public Health Service, Department of Health and Human Services, transmitting, pursuant to law, a report of a rule relative to changes to approved applications, received on July 30, 1997; to the Committee on Labor and Human Resources.

EC–2688. A communication from the Director, Regulations Policy Management Staff, Office of Policy Food and Drug Administration, Public Health Service, Department of Health and Human Services, transmitting, pursuant to law, a report of a rule relative to paper and paperboard components, received on July 30, 1997; to the Committee on Labor and Human Resources.

EC–2689. A communication from the Director, Regulations Policy Management Staff, Office of Policy Food and Drug Administration, transmitting, pursuant to law, a report of a rule relative to adjuvants, production aids, and sanitizers, received on July 30, 1997; to the Committee on Labor and Human Resources.

EC–2690. A communication from the Director, Regulations Policy Management Staff, Office of Policy Food and Drug Administration, Public Health Service, Department of Health and Human Services, transmitting, pursuant to law, a report of a rule relative to revocation of certain regulations (RIN0910–AA54), received on July 30, 1997; to the Committee on Labor and Human Resources.

EC–2691. A communication from the Director, Regulations Policy Management Staff, Office of Policy Food and Drug Administration, Public Health Service, Department of Health and Human Services, transmitting, pursuant to law, a report of a rule relative to indirect food additives, received on July 30, 1997; to the Committee on Labor and Human Resources.

EC–2692. A communication from the Director, Regulations Policy Management Staff, Office of Policy Food and Drug Administration, Public Health Service, Department of Health and Human Services, transmitting, pursuant to law, a report of a rule relative to adhesives and components of coatings, received on July 30, 1997; to the Committee on Labor and Human Resources.

EC–2693. A communication from the Acting Assistant Secretary for Occupational Safety and Health, U.S. Department of Labor, transmitting, pursuant to law, a rule relative to longshoring and marine terminals (RIN1218–AA56), received on July 27, 1997; to the Committee on Labor and Human Resources.

EC–2694. A communication from the Director, Defense Procurement, Acquisition and Technology, Department of Defense, transmitting, pursuant to law, a report of a rule relative to the Defense Federal Acquisition Regulation Supplement, received on July 29, 1997; to the Committee on Armed Services.

EC–2695. A communication from the Secretary of Defense, transmitting, pursuant to law, a report relative to training military medical personnel; to the Committee on Armed Services.

EC–2696. A communication from the Director, Defense Finance and Accounting Service, Department of Defense, transmitting, pursuant to law, a modification of the cost comparison study; to the Committee on Armed Services.

EC–2697. A communication from the Chief, Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, information relative to cost comparison; to the Committee on Armed Services.

EC–2698. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report relative to military base realignment and closure; to the Committee on Armed Services.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHAFEE, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 399. A bill to amend the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 to establish the United States Institute for Environmental Conflict Resolution to conduct environmental conflict resolution and training, and for other purposes (Rept. No. 105–60).

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute and an amendment to the title:

S. 414. A bill to amend the Shipping Act of 1984 to encourage competition in international shipping and growth of United States imports and exports, and for other purposes (Rept. No. 105–61).

By Mr. WARNER, from the Committee on Rules and Administration, without amendment:

S. Res. 110. A bill to permit an individual with a disability with access to the Senate floor to bring necessary supporting aids and services.

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary:

Frank M. Hull, of Georgia, to be United States Circuit Judge for the Eleventh Circuit.

Joseph F. Bataillon, of Nebraska, to be United States District Judge for the District of Nebraska.

Robert Charles Chambers, of West Virginia, to be United States District Judge for the Southern District of West Virginia.

Christopher Droney, of Connecticut, to be United States District Judge for the District of Connecticut.

Janet C. Hall, of Connecticut, to be United States District Judge for the District of Connecticut.

Sharon J. Zealey, of Ohio, to be United States Attorney for the Southern District of Ohio for the term of four years.

James Allan Hurd, Jr., of the Virgin Islands, to be United States Attorney for the District of the Virgin Islands for the term of four years.

Sophia H. Hall, of Illinois, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 2002. (Reappointment)

(The above nominations were reported with the recommendation that they be confirmed.)

By Mr. THOMPSON, from the Committee on Governmental Affairs:

James H. Atkins, of Arkansas, to be a Member of the Federal Retirement Thrift Investment Board for a term expiring September 25, 2000. (Reappointment)

George A. Omas, of Mississippi, to be a Commissioner of the Postal Rate Commission for a term expiring October 14, 2000.

Janice R. Lachance, of Virginia, to be Deputy Director of the Office of Personnel Management.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ALLARD:

S. 1094. A bill to authorize the use of certain public housing operating funds to provide tenant-based assistance to public housing residents; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ROBERTS (for himself, Mr. BINGAMAN, Mr. BROWNBACK, Mr. CAMPBELL, Mr. DOMENICI, and Mr. INOUYE):

S. 1095. A bill to enhance the administrative authority of the respective presidents of Haskell Indian Nations University and the Southwestern Indian Polytechnic Institute, and for other purposes; to the Committee on Indian Affairs.

By Mr. KERREY (for himself and Mr. GRASSLEY):

S. 1096. A bill to restructure the Internal Revenue Service, and for other purposes; to the Committee on Finance.

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S. 1097. A bill to reduce acid deposition under the Clean Air Act, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DURBIN:

S. 1098. A bill to provide for the debarment or suspension from Federal procurement and nonprocurement activities of persons that violate certain labor and safety laws; to the Committee on Governmental Affairs.

By Mr. DASCHLE (for himself and Mr. JOHNSON):

S. 1099. A bill to authorize the Secretary of the Army to acquire such land in the vicinity of Pierre, South Dakota, as the Secretary determines is adversely affected by the full wintertime Oahe Powerplant release; to the Committee on Environment and Public Works.

By Mr. AKAKA (for himself, Ms. COLLINS, Mr. HUTCHINSON, Ms. LANDRIEU, Mr. BUMPERS, Mr. FORD, Mr. BINGAMAN, and Mr. HOLLINGS):

S. 1100. A bill to amend the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, the legislation approving such covenant, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. JEFFORDS (for himself and Mr. LEAHY):

S. 1101. A bill to amend the Harmonized Tariff Schedule of the United States to provide rates of duty for certain ski footwear with textile uppers; to the Committee on Finance.

By Mr. CRAIG (for himself, Mr. MURKOWSKI, Mr. REID, Mr. BRYAN, Mr. BENNETT, Mr. BURNS, Mr. HATCH, Mr. THOMAS, Mr. CAMPBELL, Mr. STEVENS, and Mr. KEMPTHORNE):

S. 1102. A bill to amend the general mining laws to provide a reasonable royalty from mineral activities on Federal lands, to specify reclamation requirements for mineral activities on Federal lands, to create a State program for the reclamation of abandoned hard rock mining sites on Federal lands, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MOYNIHAN (for himself, Mr. REID, Mrs. BOXER, Ms. MIKULSKI, and Mr. ROBB):

S. 1103. A bill to amend title 23, United States Code, to authorize Federal participation in financing of projects to demonstrate the feasibility of deployment of magnetic levitation transportation technology, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HOLLINGS (for himself and Ms. SNOWE):

S. 1104. A bill to direct the Secretary of the Interior to make corrections in maps relating to the Coastal Barrier Resources System; to the Committee on Environment and Public Works.

By Mr. COCHRAN (for himself and Mr. CONRAD):

S. 1105. A bill to amend the Internal Revenue Code of 1986 to provide a sound budgetary mechanism for financing health and death benefits of retired coal miners while ensuring the long-term fiscal health and solvency of such benefits, and for other purposes; to the Committee on Finance.

By Mr. COATS:

S. 1106. A bill to provide for the establishment of demonstration projects designed to determine the social, civic, psychological, and economic effects of providing to individuals and families with limited means an opportunity to accumulate assets, and to determine the extent to which an asset-based policy may be used to enable individuals and families with limited means to achieve economic self-sufficiency; to the Committee on Finance.

By Mr. COVERDELL:

S. 1107. A bill to protect consumers by eliminating the double postage rule under which the Postal Service requires competitors of the Postal Service to charge above market prices; to the Committee on Governmental Affairs.

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S. 1108. A bill to designate the Federal building located at 290 Broadway in New York, New York, as the ''Ronald H. Brown Federal Building''; to the Committee on Environment and Public Works.

By Mr. BOND (for himself and Mr. ASHCROFT):

S. 1109. A bill to make a minor adjustment in the exterior boundary of the Devils Backbone Wilderness in the Mark Twain National Forest, Missouri, to exclude a small parcel of land containing improvements; to the Committee on Energy and Natural Resources.

By Mr. SPECTER:

S. 1110. A bill to amend title 28, United States Code, to place a limitation on habeas corpus relief that prevents retrial of an accused; to the Committee on the Judiciary.

By Mr. LAUTENBERG:

S. 1111. A bill to establish a youth mentoring program; to the Committee on the Judiciary.

By Mr. CAMPBELL (for himself, Mr. INOUYE, Mr. CONRAD, and Mr. WELLSTONE):

S. 1112. A bill to require the Secretary of the Treasury to mint coins in commemoration of Native American history and culture; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GRASSLEY (for himself, Mr. DURBIN, Mr. HATCH, Mr. DEWINE, Mr. HAGEL, and Mr. WARNER):

S. 1113. A bill to extend certain temporary judgeships in the Federal judiciary; to the Committee on the Judiciary.

By Mr. JEFFORDS (for himself, Mr. ROCKEFELLER, Ms. MIKULSKI, Mr. INOUYE, Mr. DASCHLE, Mr. KERRY, Mrs. BOXER, Mrs. FEINSTEIN, Mr. DODD, Mr. WELLSTONE, Mr. HARKIN, and Mr. HOLLINGS):

S. 1114. A bill to impose a limitation on lifetime aggregate limits imposed by health plans; to the Committee on Labor and Human Resources.

By Mr. LOTT (for himself, Mr. DASCHLE, Mr. SHELBY, Mr. ROCKEFELLER, Mr. WARNER, Mr. ROBB, Mr. INHOFE, Mr. INOUYE, Mr. COCHRAN, and Mr. CONRAD):

S. 1115. A bill to amend title 49, United States Code, to improve one-call notification process, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. ROTH (for himself and Mr. COVERDELL):

S. 1116. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for education; to the Committee on Finance.

By Ms. SNOWE:

S. 1117. A bill to amend Federal elections law to provide for campaign finance reform, and for other purposes; to the Committee on Rules and Administration.

By Mr. MURKOWSKI:

S. 1118. A bill to amend the Land and Water Conservation Fund for purposes of establishing a Community Recreation and Conservation Endowment with certain escrowed oil and gas revenues; to the Committee on Energy and Natural Resources.

By Mr. ABRAHAM:

S. 1119. A bill to amend the Perishable Agricultural Commodities Act, 1930 to increase the penalty under certain circumstances for commission merchants, dealers, or brokers who misrepresent the country of origin or other characteristics of perishable agricultural commodities; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LOTT (for himself and Mr. DASCHLE):

S. 1120. A bill to provide for a consultant for the President pro tempore; considered and passed.

By Mr. HATCH (for himself, Mr. LEAHY, Mr. THOMPSON, and Mr. KOHL):

S. 1121. A bill to amend Title 17 to implement the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty; to the Committee on the Judiciary.

By Mr. KOHL (for himself, Mr. GRASSLEY, and Mr. REID):

S. 1122. A bill to establish a national registry of abusive and criminal patient care workers and to require criminal background checks of patient care workers; to the Committee on Finance.

By Mr. HATCH (for himself, Mr. BAUCUS, Mr. D'AMATO, and Mrs. BOXER):

S. 1123. A bill to amend the Internal Revenue Code of 1986 relating to the unemployment tax for individuals employed in the entertainment industry; to the Committee on Finance.

By Mr. KERRY (for himself and Mr. COATS):

S. 1124. A bill to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodation in employment, and for other purposes; to the Committee on the Judiciary.

By Ms. MOSELEY-BRAUN (for herself and Mr. DURBIN):

S. 1125. A bill to amend title 23, United States Code, to extend the discretionary bridge program; to the Committee on Environment and Public Works.

By Mrs. BOXER (for herself and Ms. MOSELEY-BRAUN):

S. 1126. A bill to repeal the provision in the Balanced Budget Act of 1997 relating to base periods for Federal unemployment tax purposes; to the Committee on Labor and Human Resources.

By Mr. KERRY:

S. 1127. A bill to apply the rates of duty in effect on January 1, 1995, to certain water resistant wool trousers; to the Committee on Finance.

By Mr. WELLSTONE:

S. 1128. A bill to provide rental assistance under section 8 of the United States Housing Act of 1937 for victims of domestic violence to enable such victims to relocate; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. WELLSTONE (for himself and Mr. DURBIN):

S. 1129. A bill to provide grants to States for supervised visitation centers; to the Committee on Labor and Human Resources.

By Mr. CAMPBELL (for himself and Mr. INOUYE):

S. 1130. A bill to provide for the assessment of fees by the National Indian Gaming Commission, and for other purposes; to the Committee on Indian Affairs.

By Mr. MACK:

S. 1131. A bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit; to the Committee on Finance.

By Mr. BINGAMAN:

S. 1132. A bill to modify the boundaries of the Bandelier National Monument to include the lands within the headwaters of the Upper Alamo Watershed which drain into the Monument and which are not currently within the jurisdiction of a federal land management agency, to authorize purchase or donation of those lands, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. COVERDELL (for himself, Mr. LOTT, Mr. NICKLES, Mr. MACK, Mr. CRAIG, Mr. MCCONNELL, Mr. ROTH, Mr. GRAMM, Mr. ABRAHAM, Mr. ASHCROFT, Mr. ALLARD, Mr. BENNETT, Mr. BOND, Mr. BROWNBACK, Mr. COATS, Mr. DOMENICI, Mr. DEWINE, Mr. FAIRCLOTH, Mr. GORTON, Mr. GRAMS, Mr. GREGG, Mr. HAGEL, Mr. HATCH, Mr. HELMS, Mr. HUTCHINSON, Mrs. HUTCHISON, Mr. INHOFE, Mr.

LIEBERMAN, Mr. MCCAIN, Mr. MURKOWSKI, Mr. ROBERTS, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH of New Hampshire, Mr. TORRICELLI, and Mr. WARNER):

S. 1133. A bill to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirment accounts for elementary and secondary school expenses and to increase the maximum annual amount of contributions to such accounts; to the Committee on Finance.

By Mrs. MURRAY (for herself, Mr. CRAIG, Mr. WYDEN, Mr. BAUCUS, Mr. MURKOWSKI, Mr. SMITH of Oregon, Mr. BURNS, Mr. GORTON, and Mr. KEMPTHORNE):

S. 1134. A bill granting the consent and approval of Congress to an interstate forest fire protection compact; to the Committee on the Judiciary.

By Mr. MCCONNELL:

S. 1135. A bill to provide certain immunities from civil liability for trade and professional associations, and for other purposes; to the Committee on the Judiciary.

By Mr. DURBIN:

S. 1136. A bill to amend the Employee Retirement Income Security Act of 1974 to provide that the State preemption rules shall not apply to certain actions under State law to protect health insurance policyholders; to the Committee on Labor and Human Resources.

S. 1137. A bill to amend section 258 of the Communications Act of 1934 to establish additional protections against the unauthorized change of subscribers from one telecommunications carrier to another; to the Committee on Commerce, Science, and Transportation.

By Mr. HELMS (for himself, Mr. BROWNBACK, Mr. BURNS, Mr. HAGEL, and Mr. ROBERTS):

S. 1138. A bill to reform the coastwise, intercoastal, and noncontiguous trade shipping laws, and for other purposes; to the Committee on Commerce, Science, and Transportation.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. THURMOND:

S. Res. 111. A resolution designating the week beginning September 14, 1997, as ''National Historically Black Colleges and Universities Week'', and for other purposes; to the Committee on the Judiciary.

By Mr. ASHCROFT (for himself and Mr. FEINGOLD):

S. Res. 112. A resolution condemning the most recent outbreak of violence in the Republic of Congo and recognizing the threat such violence poses to the prospects for a stable democratic form of government in that country; to the Committee on Foreign Relations.

By Mr. GRAHAM:

S. Res. 113. A resolution congratulating the people of Jamaica on the occasion of the 35th anniversary of their nation's independence and expressing support for the continuation of strong ties between Jamaica and the United States; to the Committee on Foreign Relations.

By Mr. TORRICELLI (for himself and Mr. BROWNBACK):

S. Res. 114. A resolution expressing the sense of the Senate that the transfer of Hong Kong to the People's Republic of China not alter the current or future status of Taiwan as a free and democratic country; to the Committee on Foreign Relations.

By Mrs. BOXER (for herself and Mr. JOHNSON):

S. Res. 115. A resolution expressing support for a National Day of Unity in response to the President's call for a national dialogue on race; to the Committee on the Judiciary.

By Mr. LEVIN (for himself and Mr. JEFFORDS):

S. Res. 116. A resolution designating November 15, 1997, and November 15, 1998, as ''America Recycles Day''; to the Committee on the Judiciary.

By Mr. LUGAR (for himself and Mr. ROCKEFELLER):

S. Con. Res. 47. A concurrent resolution expressing the sense of Congress that the United States Government should fully participate in EXPO 2000 in the year 2000, in Hanover, Germany, and should encourage the academic community and the private sector in the United States to support this worthwhile undertaking; to the Committee on Foreign Relations.

By Mr. KYL (for himself, Mrs. FEINSTEIN, Mr. SHELBY, Mr. ALLARD, Mr. ASHCROFT, Mr. BROWNBACK, Mr. BURNS, Mr. D'AMATO, Mr. INHOFE, Mr. JOHNSON, Ms. MIKULSKI, and Mr. SPECTER):

S. Con. Res. 48. A concurrent resolution expressing the sense of the Congress regarding proliferation of missile technology from Russia to Iran; to the Committee on Foreign Relations.

By Mr. LEVIN (for himself and Mr. JEFFORDS):

S. Con. Res. 49. A concurrent resolution authorizing use of the Capitol Grounds for ''America Recycles Day'' national kick-off campaign; to the Committee on Governmental Affairs.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ALLARD:

S. 1094. A bill to authorize the use of certain public housing operating funds to provide tenant-based assistance to public housing residents; to the Committee on Banking, Housing, and Urban Affairs.

THE CRIME VICTIM HOUSING VOUCHERS BILL

JULY 30, 1997

Mr. ALLARD. Today, Mr. President, I would like to introduce a bill that would provide for more public housing vouchers. I have been working on this issue in the Housing Subcommittee, and it is my hope that a similar provision will be placed in the Public Housing bill.

The original intent of the Federal housing assistance program was to provide temporary housing to poor individuals and families. Since their inception, federal housing programs have grown dramatically. Today they provide $25 billion per year in housing assistance.

In my view, the voucher program is the best means for low-income families to find secure affordable rental housing. The voucher program first began in 1974 and has grown to serve over 1.5 million low-income families today. These families are empowered with the choice of where they want to live and are given the freedom to determine what surroundings they desire. Vouchers are the preferable means of providing affordable housing to low-income individuals.

Vouchers enjoy wide support, including past Republican and Democratic administrations. In fact, the current Secretary of HUD, Secretary Andrew Cuomo supports an expanded voucher program.

Vouchers are very popular, which is demonstrated by the 1.5 million families who are currently using vouchers or certificates. Vouchers empower individuals and promote competition within Public Housing Authorities and within the community, thereby lowering costs and improving conditions for the residents. Vouchers or other alternatives can be less expensive than the current public housing program; they can save the government money, and improve conditions for the tenants.

Studies have indicated that project-based housing assistance costs more on average than the voucher housing program. In fact, the findings of the June 1995 GAO report indicated that housing vouchers cost 10 percent less than project-based housing. This study clearly demonstrated that on a national average, the section 8 tenant-based housing program is cheaper than the public unit-based housing program. In fact, one can say that the savings from the movement to vouchers would amount to $640 million per year which could add additional housing assistance.

Under this legislation, ten percent of the public housing operating funds that are distributed to each public housing authority would be made available for those who currently live in the public housing unit and wish to be given a voucher. Nothing would be required or mandated; it is simply a choice given to the resident. In fact, we make clear that any unexpended amounts set aside for vouchers would be used by the PHAs for normal operating funds.

Quite frankly, I really don't know how anyone could oppose this provision unless they are just opposed to giving people a choice and an opportunity.

The language that I have proposed also establishes a preference for crime victims. It states that a voucher will be made available to any resident of public housing who is the victim of a crime of violence that has been reported to law enforcement. People should have the option of vouchers when their housing is unsafe.

My strong belief is that we should increase the pace at which we move ahead with the conversion of housing from the old central planning and concentrated public housing model, to one of choice and opportunities through the use of vouchers.

By Mr. ROBERTS (for himself, Mr. BINGAMAN, Mr. BROWNBACK, Mr. CAMPBELL, Mr. DOMENICI and Mr. INOUYE):

S. 1095. A bill to enhance the administrative authority of the respective presidents of Haskell Indian Nations University and the Southwestern Indian Polytechnic Institute, and for other purposes; to the Committee on Indian Affairs.

THE HASKELL INDIAN NATIONS UNIVERSITY AND SOUTHWESTERN INDIAN POLYTECHNIC INSTITUTE ADMINISTRATIVE SYSTEMS ACT OF 1997

Mr. ROBERTS. Mr. President, I rise today to introduce the Haskell Indian Nations University and Southwestern Indian Polytechnic Institute Administrative Systems Act of 1997. I am pleased to have my colleagues, Senators SAM BROWNBACK, JEFF BINGAMAN, PETE DOMENICI, and DANIEL INOUYE, and Indian Affairs Committee Chairman Senator BEN NIGHTHORSE CAMPBELL as cosponsors. This legislation will provide Haskell Indian Nations University and Southwestern Indian Polytechnic Institute the administrative authority and flexibility to complete their transitions from two year institutions to a 4-year university for Haskell, and a national community college for SIPI.

Located in Lawrence, KS, Haskell is an educational institution rich in history and opportunity for American Indian and Alaskan Native communities. Founded in 1884 as the United States Indian Industrial Training School, Haskell has grown from a school providing agricultural education for grades one through five to a fully accredited four-year university. In October 1993, Haskell changed its name from Haskell Indian Junior College to Haskell Indian Nations University after receiving accreditation to offer a bachelor of science degree in elementary teacher education. Since its inception, Haskell has provided tuition-free education, culturally sensitive curricula, innovative services and a commitment to academic excellence to federally recognized tribal members. With as many as 175 tribes represented in the student body, Haskell offers Native American history, institutions, arts, literature, and language courses integrating the perspectives of various Native American cultures. Haskell continues development of 4-year programs in other fields, striving to meet the challenge of enriching the lives of young native Americans and Alaska Natives.

I support Haskell's vision to become a national center for Indian education, research, and cultural programs; increasing the knowledge and supporting the educational needs of American Indians and Alaskan Natives. This legislation, which allows the institution to remain within the Bureau of Indian Affairs and employees to continue participation in Federal retirement and health benefit programs, provides the Haskell president and Board of Regents authority over organizational structure, classification of positions, recruitment, procurement, and determination of all human resource policies and procedures. In short, this legislation completes Haskell's transition by giving the school the autonomy enjoyed by the tribally controlled community colleges and BIA elementary and secondary schools. As Haskell continues to change and meet the educational demands of native Americans and Alaskan Natives into the 21st Century, so too should the system by which Haskell is administered change and grow. The Haskell Indian Nations University and Southwestern Indian Polytechnic Institute Administrative Systems Act of 1997 complements the educational and administrative efforts of these schools, giving Haskell and SIPI the support and flexibility required to progress and develop into outstanding institutions of higher learning. My Kansas colleague, Representative VINCENT SNOWBARGER, has introduced this bill in the House of Representatives.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1095

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Haskell Indian Nations University and Southwestern Indian Polytechnic Institute Administrative Systems Act of 1997''.

**SEC. 2. FINDINGS.**

The Congress finds that—

(1) the provision of culturally sensitive curricula for higher education programs at Haskell Indian Nations University and the Southwestern Indian Polytechnic Institute is consistent with the commitment of the Federal Government to the fulfillment of treaty obligations to Indian tribes through the principle of self-determination and the use of Federal resources; and

(2) giving a greater degree of autonomy to those institutions, while maintaining them as an integral part of the Bureau of Indian Affairs, will facilitate—

(A) the transition of Haskell Indian Nations University to a 4-year university; and

(B) the administration and improvement of the academic program of the Southwestern Indian Polytechnic Institute.

**SEC. 3. DEFINITIONS.**

For purposes of this Act—

(1) HASKELL INDIAN NATIONS UNIVERSITY.—The term ''Haskell Indian Nations University'' means Haskell Indian Nations University, located in Lawrence, Kansas.

(2) SOUTHWESTERN INDIAN POLYTECHNIC INSTITUTE.—The term ''Southwestern Indian Polytechnic Institute'' means the Southwestern Indian Polytechnic Institute, located in Albuquerque, New Mexico.

(3) RESPECTIVE INSTITUTIONS, ETC.—The terms ''respective institutions'' and ''institutions to which this Act applies'' mean Haskell Indian Nations University and the Southwestern Indian Polytechnic Institute.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

**SEC. 4. PERSONNEL MANAGEMENT.**

(a) INAPPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—Chapters 51, 53, and 63 of title 5, United States Code (relating to classification, pay, and leave, respectively) and the provisions of such title relating to the appointment, performance evaluation, promotion, and removal of civil service employees shall not apply to applicants for employment with, employees of, or positions in or under either of the institutions to which this Act applies.

(b) ALTERNATIVE PERSONNEL MANAGEMENT PROVISIONS.—

(1) IN GENERAL.—The president of each of the respective institutions shall by regulation prescribe such personnel management provisions as may be necessary, in the interest of effective administration, to replace the provisions of law that are inapplicable with respect to such institution by reason of subsection (a).

(2) PROCEDURAL REQUIREMENTS.—Regulations under this subsection—

(A) shall be prescribed in consultation with the board of regents (or, if none, the governing body) of the institution involved and other appropriate representative bodies;

(B) shall be subject to the requirements of subsections (b) through (e) of section 553 of title 5, United States Code; and

(C) shall not take effect except with the prior written approval of the Secretary.

(c) SPECIFIC SUBSTANTIVE REQUIREMENTS.—Under the regulations prescribed for an institution under this section—

(1) no rate of basic pay may, at any time, exceed—

(A) in the case of an employee who would otherwise be subject to the General Schedule, the maximum rate of basic pay then currently payable for grade GS–15 of the General Schedule (including any amount payable under section 5304 of title 5, United States Code, or other similar authority for the locality involved); or

(B) in the case of an employee who would otherwise be subject to subchapter IV of chapter 53 of title 5, United States Code (relating to prevailing rate systems), the maximum rate of basic pay which (but for this section) would then otherwise be currently payable under the wage schedule covering such employee;

(2) section 5307 of title 5, United States Code (relating to limitation on certain payments) shall apply, subject to such definitional and other modifications as may be necessary in the context of the applicable alternative personnel management provisions under this section;

(3) procedures shall be established for the rapid and equitable resolution of grievances;

(4) no employee may be discharged without notice of the reasons therefor and opportunity for a hearing under procedures that comport with the requirements of due process, except that this paragraph shall not apply in the case of an employee serving a probationary or trial period under an initial appointment; and

(5) employees serving for a period specified in or determinable under an employment agreement shall, except as otherwise provided in the agreement, be notified at least 30 days before the end of such period as to whether their employment agreement will be renewed.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be considered to affect the applicability of—

(1) any provision of law providing for—

(A) equal employment opportunity;

(B) Indian preference; or

(C) veterans' preference;

(2) any provision of chapter 23 of title 5, United States Code, or any other provision of such title, relating to merit system principles or prohibited personnel practices; or

(3) chapter 71 of title 5, United States Code, relating to labor-management and employee relations.

(e) LABOR-MANAGEMENT PROVISIONS.—

(1) COLLECTIVE-BARGAINING AGREEMENTS.—Any collective-bargaining agreement in effect on the day before the applicable effective date under subsection (f)(1) shall continue to be recognized by the institution involved until altered or amended pursuant to law.

(2) EXCLUSIVE REPRESENTATIVE.—Nothing in this Act shall affect the right of any labor organization to be accorded (or to continue to be accorded) recognition as the exclusive representative of any unit of employees.

(3) OTHER PROVISIONS.—Matters made subject to regulation under this section shall not be subject to collective bargaining.

(f) EFFECTIVE DATE.—

(1) ALTERNATIVE PERSONNEL MANAGEMENT PROVISIONS.—Any alternative personnel management provisions under this section shall take effect on such date as may be specified in the regulations applicable with respect to the institution involved, except that in no event shall the date specified be later than 1 year after the date of the enactment of this Act.

(2) PROVISIONS MADE INAPPLICABLE BY THIS SECTION.—Subsection (a) shall, with respect to an institution, take effect as of the effective date specified with respect to such institution under paragraph (1).

(g) APPLICABILITY.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the alternative personnel management provisions under this section shall apply with respect to all applicants for employment with, all employees of, and all positions in or under the institution involved.

(2) CURRENT EMPLOYEES NOT COVERED EXCEPT PURSUANT TO A VOLUNTARY ELECTION.—

(A) IN GENERAL.—An employee serving with an institution on the day before the applicable effective date under subsection (f)(1) shall not be subject to such institution's alternative personnel management provisions (and shall instead, for purposes of such institution, be treated in the same way as if this section had not been enacted, notwithstanding subsection (a)) unless, before the end of the 5-year period beginning on such effective date, such employee elects to be covered by such provisions.

(B) PROCEDURES.—An election under this paragraph shall be made in such form and in such manner as may be required under the regulations, and shall be irrevocable.

(3) TRANSITION PROVISIONS.—

(A) PROVISIONS RELATING TO ANNUAL AND SICK LEAVE.—Any individual who—

(i) makes an election under paragraph (2), or

(ii) on or after the applicable effective date under subsection (f)(1), is transferred, promoted, or reappointed, without a break in service of 3 days or longer, to a position within an institution to which this Act applies from a position with the Federal Government or the government of the District of Columbia,

shall be credited, for the purpose of the leave system provided under regulations prescribed under this section, in conformance with the requirements of section 6308 of title 5, United States Code, with the annual and sick leave to such individual's credit immediately before the effective date of such election, transfer, promotion, or reappointment, as the case may be.

(B) LIQUIDATION OF REMAINING LEAVE UPON TERMINATION.—

(i) ANNUAL LEAVE.—Upon termination of employment with an institution to which this Act applies, any annual leave remaining to the credit of an individual within the purview of this section shall be liquidated in accordance with section 5551(a) and section 6306 of title 5, United States Code.

(ii) SICK LEAVE.—Upon termination of employment with an institution to which this Act applies, any sick leave remaining to the credit of an individual within the purview of this section shall be creditable for civil service retirement purposes in accordance with section 8339(m) of title 5, United States Code, except that leave earned or accrued under regulations prescribed under this section shall not be so creditable.

(C) TRANSFER OF REMAINING LEAVE UPON TRANSFER, PROMOTION, OR REEMPLOYMENT.—In the case of an employee of an institution to which this Act applies who is transferred, promoted, or reappointed, without a break in service of 3 days or longer, to a position in the Federal Government (or the government of the District of Columbia) under a different leave system, any leave remaining to the credit of that individual which was earned or credited under the regulations prescribed under this section shall be transferred to such individual's credit in the employing agency on an adjusted basis in accordance with section 6308 of title 5, United States Code.

(4) WORK-STUDY.—Nothing in this section shall be considered to apply with respect to a work-study student, as defined by the president of the institution involved, in writing.

**SEC. 5. DELEGATION OF PROCUREMENT AUTHORITY.**

The Secretary shall, to the maximum extent consistent with applicable law and subject to the availability of appropriations therefor, delegate to the president of each of the respective institutions procurement and contracting authority with respect to the conduct of the administrative functions of such institution.

**SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to each of the respective institutions for fiscal year 1998, and for each fiscal year thereafter—

(1) the amount of funds made available by appropriations as operations funding for the administration of such institution for fiscal year 1997; and

(2) such additional sums as may be necessary for the operation of such institution pursuant to this Act.

Mr. BINGAMAN. Mr. President, I am pleased to join my colleague from the State of Kansas, Senator ROBERTS, in introducing a bill that will enable two Tribal Colleges to pursue their missions without the burden of unnecessary Federal regulations. Like Haskell Indian Nations University, the Southwestern Indian Polytechnic Institute of Albuquerque (SIPI) is one of about 30 Tribal Colleges that is supported by the Bureau of Indian Affairs. Many of the students at these colleges are the first in their families to attend college, and having a Tribal College near their home and in tune with their tradition is critical to their education and economic success. Both Haskell and SIPI have grown in academic stature in the past few decades. SIPI recently marked its 25th anniversary and adopted a Master Plan that will guide the growth of its programs and facilities beyond the year 2000.

A recent report by the Carnegie Foundation for the Advancement of Teaching entitled ''Native American Colleges: Progress and Prospects,'' documents the critical role that these colleges play in offering Native Americans access to higher education. This report also traces the history of the relationship between the Federal government and Tribal Colleges. Haskell and SIPI are the only Tribal Colleges that are administered by the Bureau of Indian Affairs, and as a result are bound by the personnel regulations that apply to Federal agencies. At one time, this policy made sense and allowed these two universities to establish an administrative infrastructure and academic programs. But as the Carnegie Foundation report points out, the relationship between the Federal government and Tribal Colleges should evolve as the institutions take on more self-determination. The time has come to enact legislation that reflects the growth of these institutions.

The Federal personnel regulations imposed on SIPI and Haskell are inappropriate for institutions of higher education and are not recognized by accreditation organizations. This bill would allow Haskell and SIPI to establish independent authority over their personnel policies and practices. There is a world of difference between a Federal agency and a thriving institution of higher education, and these differences should be reflected in their personnel classification, pay systems, and policies for hiring and promotion. SIPI needs the authority to hire and promote faculty and staff on the basis of their intellect and the excellence of their teaching, research, and service to the institution.

The U.S. military academies have encountered these same obstacles, and they have adopted alternative personnel regulations approved by the Office of Personnel Management. The personnel authority that would be established under this bill have been modeled after those in use by the U.S. Air Force Academy. OPM has been consulted and is in agreement with the contents of this bill.

I agree with the Carnegie Foundation's report when it says: ''These institutions have taken on a breathtaking array of responsibilities. With each passing year, tribal colleges prove their worth to tribal communities, and to the nation. They can longer be dismissed as risky experiments, nor can their accomplishments be ignored. They are a permanent part of their reservations and this country.''

I applaud Senator ROBERTS' efforts to develop and introduce this legislation. I look forward to working with him and with Senators CAMPBELL and INOUYE of the Committee on Indian Affairs to provide these two institutions with the flexibility they need to continue to flourish.

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By Mr. KERREY (for himself and Mr. GRASSLEY):

S. 1096. A bill to restructure the Internal Revenue Service, and for other purposes; to the Committee on Finance.

THE INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1997

Mr. KERREY. Madam President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1096

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the ''Internal Revenue Service Restructuring and Reform Act of 1997''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—



**SEC. 2. CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSES.**

(a) The Congress finds the following:

(1) The structure of the Internal Revenue Service should be strengthened to ensure focus and better target its budgeting, staffing, and technology to serve the American taxpayer and collect the Federal revenue.

(2) The American public expects timely, accurate, and respectful service from the Internal Revenue Service.

(3) The job of the Internal Revenue Service is to operate as an efficient financial management organization.

(4) The bulk of the Federal revenue is generated through voluntary compliance. Taxpayer service and education, as well as targeted compliance and enforcement initiatives, increase voluntary compliance.

(5) While the Internal Revenue Service must maintain a strong enforcement presence, its core and the core of the Federal revenue stream lie in a revamped, modern, technologically advanced organization that can track finances, send out clear notices, and assist taxpayers promptly and efficiently.

(6) The Internal Revenue Service governance, management, and oversight structures must: develop and maintain a shared vision with continuity; set and maintain priorities and strategic direction; impose accountability on senior management; provide oversight through a credible board, including members who bring private sector expertise to the Internal Revenue Service; develop appropriate measures of success; align budget and technology with priorities and strategic direction; and coordinate oversight and identify problems at an early stage.

(7) The Internal Revenue Service must use information technology as an enabler of its strategic objectives.

(8) Electronic filing can increase cost savings and compliance.

(9) In order to ensure that fewer taxpayers are subject to improper treatment by the Internal Revenue Service, Congress and the agency need to focus on preventing problems before they occur.

(10) There currently is no mechanism in place to ensure that Members of Congress have a complete understanding of how tax legislation will affect taxpayers and the Internal Revenue Service and to create incentives to simplify the tax law, and to ensure that Congress hears directly from the Internal Revenue Service during the legislative process.

(b) The purposes of this Act are as follows:

(1) To restructure the Internal Revenue Service, transforming it into a world class service organization.

(2) To establish taxpayer satisfaction as the goal of the Internal Revenue Service, such that the Internal Revenue Service should only initiate contact with a taxpayer if the agency is prepared to devote the resources necessary for a proper and timely resolution of the matter.

(3) To provide for direct accountability to the President for tax administration, an Internal Revenue Service Oversight Board, a strengthened Commissioner of Internal Revenue, and coordinated congressional oversight to ensure that there are clear lines of accountability and that the leadership of the Internal Revenue Service has the continuity and expertise to guide the agency.

(4) To enable the Internal Revenue Service to recruit and train a first-class workforce that will be rewarded for performance and held accountable for working with taxpayers to solve problems.

(5) To establish paperless filing as the preferred and most convenient means of filing tax returns for the vast majority of taxpayers within 10 years of enactment of this Act.

(6) To provide additional taxpayer protections and rights and to ensure that taxpayers receive fair, impartial, timely, and courteous treatment from the Internal Revenue Service.

(7) To establish the resolution of the century date change problem as the highest technology priority of the Internal Revenue Service.

(8) To establish procedures to minimize complexity in the tax law and simplify tax administration, and provide Congress with an independent view of tax administration from the Internal Revenue Service.

## TITLE I—EXECUTIVE BRANCH GOVERNANCE AND SENIOR MANAGEMENT OF THE INTERNAL REVENUE SERVICE

### Subtitle A—Executive Branch Governance and Senior Management

**SEC. 101. INTERNAL REVENUE SERVICE OVERSIGHT BOARD.**

(a) IN GENERAL.—Section 7802 (relating to the Commissioner of Internal Revenue) is amended to read as follows:

**''SEC. 7802. INTERNAL REVENUE SERVICE OVERSIGHT BOARD.**

''(a) ESTABLISHMENT.—There is established within the Department of the Treasury the Internal Revenue Service Oversight Board (in this subchapter referred to as the 'Board').

''(b) MEMBERSHIP.—

''(1) COMPOSITION.—The Board shall be composed of 9 members, of whom—

''(A) 7 shall be individuals who are not full-time Federal officers or employees, who are appointed by the President, by and with the advice and consent of the Senate, and who shall be considered special government employees pursuant to paragraph (2),

''(B) 1 shall be the Secretary of the Treasury or, if the Secretary so designates, the Deputy Secretary of the Treasury, and

''(C) 1 shall be a representative of an organization that represents a substantial number of Internal Revenue Service employees who is appointed by the President, by and with the advice and consent of the Senate.

''(2) SPECIAL GOVERNMENT EMPLOYEES.—

''(A) QUALIFICATIONS.—Members of the Board described in paragraph (1)(A) shall be appointed solely on the basis of their professional experience and expertise in the following areas:

''(i) Management of large service organizations.

''(ii) Customer service.

''(iii) Compliance.

''(iv) Information technology.

''(v) Organization development.

''(vi) The needs and concerns of taxpayers.

In the aggregate, the members of the Board described in paragraph (1)(A) should collectively bring to bear expertise in these enumerated areas.

''(B) TERMS.—Each member who is described in paragraph (1)(A) shall be appointed for a term of 5 years, except that of the members first appointed—

''(i) 1 member shall be appointed for a term of 1 year,

''(ii) 1 member shall be appointed for a term of 2 years,

''(iii) 2 members shall be appointed for a term of 3 years, and

''(iv) 1 member shall be appointed for a term of 4 years.

''(C) REAPPOINTMENT.—An individual who is described in paragraph (1)(A) may be appointed to no more than two 5-year terms on the Board.

''(D) SPECIAL GOVERNMENT EMPLOYEES.—During such periods as they are performing services for the Board, members who are not Federal officers or employees shall be treated as special government employees (as defined in section 202 of title 18, United States Code).

''(E) CLAIMS.—

''(i) IN GENERAL.—Members of the Board who are described in paragraph (1)(A) shall have no personal liability under Federal law with respect to any claim arising out of or resulting from an act or omission by such member within the scope of service as a member. The preceding sentence shall not be construed to limit personal liability for criminal acts or omissions, willful or malicious conduct, acts or omissions for private gain, or any other act or omission outside the scope of the service of such member on the Board.

''(ii) EFFECT ON OTHER LAW.—This subparagraph shall not be construed—

''(I) to affect any other immunities and protections that may be available to such member under applicable law with respect to such transactions,

''(II) to affect any other right or remedy against the United States under applicable law, or

''(III) to limit or alter in any way the immunities that are available under applicable law for Federal officers and employees not described in this subparagraph.

''(3) VACANCY.—Any vacancy on the Board—

''(A) shall not affect the powers of the Board, and

''(B) shall be filled in the same manner as the original appointment.

''(4) REMOVAL.—

''(A) IN GENERAL.—A member of the Board may be removed at the will of the President.

''(B) SECRETARY OR DELEGATE.—An individual described in subsection (b)(1)(B) shall be removed upon termination of employment.

''(C) REPRESENTATIVE OF INTERNAL REVENUE SERVICE EMPLOYEES.—A member who is from an organization that represents a substantial number of Internal Revenue Service employees shall be removed upon termination of employment, membership, or other affiliation with such organization.

''(c) GENERAL RESPONSIBILITIES.—

''(1) IN GENERAL.—The Board shall oversee the Internal Revenue Service in the administration, management, conduct, direction, and supervision of the execution and application of the internal revenue laws or related statutes and tax conventions to which the United States is a party.

''(2) EXCEPTIONS.—The Board shall have no responsibilities or authority with respect to—

''(A) the development and formulation of Federal tax policy relating to existing or proposed internal revenue laws, related statutes, and tax conventions,

''(B) specific law enforcement activities of the Internal Revenue Service, including compliance activities such as criminal investigations, examinations, and collection activities, or

''(C) specific activities of the Internal Revenue Service delegated to employees of the Internal Revenue Service pursuant to delegation orders in effect as of the date of the enactment of this subsection, including delegation order 106 relating to procurement authority, except to the extent that such delegation orders are modified subsequently by the Secretary.

''(3) RESTRICTION ON DISCLOSURE OF RETURN INFORMATION TO BOARD MEMBERS.—No return, return information, or taxpayer return information (as defined in section 6103(b)) may be disclosed to any member of the Board described in subsection (b)(1)(A) or (C). Any request for information not permitted to be disclosed under the preceding sentence, and any contact relating to a specific taxpayer, made by a member of the Board to an officer or employee of the Internal Revenue Service shall be reported by such officer or employee to the Secretary and the Joint Committee on Taxation.

''(d) SPECIFIC RESPONSIBILITIES.—The Board shall have the following specific responsibilities:

''(1) STRATEGIC PLANS.—To review and approve strategic plans of the Internal Revenue Service, including the establishment of—

''(A) mission and objectives, and standards of performance relative to either, and

''(B) annual and long-range strategic plans.

''(2) OPERATIONAL PLANS.—To review the operational functions of the Internal Revenue Service, including—

''(A) plans for modernization of the tax system,

''(B) plans for outsourcing or managed competition, and

''(C) plans for training and education.

''(3) MANAGEMENT.—To provide for—

''(A) the selection and appointment, evaluation, and removal of the Commissioner of Internal Revenue,

''(B) the review of the Commissioner's selection, evaluation, and compensation of senior managers, and

''(C) the review of the Commissioner's plans for reorganization of the Internal Revenue Service.

''(4) BUDGET.—To—

''(A) review and approve the budget request of the Internal Revenue Service prepared by the Commissioner,

''(B) submit such budget request to the Secretary of the Treasury,

''(C) ensure that the budget request supports the annual and long-range strategic plans, and

''(D) ensure appropriate financial audits of the Internal Revenue Service.

The Secretary shall submit the budget request referred to in subparagraph (B) for any fiscal year to the President who shall submit such request, without revision, to Congress together with the President's annual budget request for the Internal Revenue Service for such fiscal year.

''(e) BOARD PERSONNEL MATTERS.—

''(1) COMPENSATION OF MEMBERS.—

''(A) IN GENERAL.—Each member of the Board who is described in subsection (b)(1)(A) shall be compensated at a rate of $30,000 per year. All other members of the Board shall serve without compensation for such service.

''(B) CHAIRPERSON.—In lieu of the amount specified in subparagraph (A), the Chairperson of the Board shall be compensated at a rate of $50,000 per year if such Chairperson is described in subsection (b)(1)(A).

''(2) TRAVEL EXPENSES.—The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

''(3) STAFF.—On the request of the Chairperson of the Board, the Commissioner shall detail to the Board such personnel as may be necessary to enable the Board to perform its duties. Such detail shall be without interruption or loss of civil service status or privilege.

''(4) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Board may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

''(f) ADMINISTRATIVE MATTERS.—

''(1) CHAIR.—The members of the Board shall elect a chairperson for a 2-year term.

''(2) COMMITTEES.—The Board may establish such committees as the Board determines appropriate.

''(3) MEETINGS.—The Board shall meet at least once each month and at such other times as the Board determines appropriate.

''(4) REPORTS.—The Board shall each year report to the President and the Congress with respect to the conduct of its responsibilities under this title.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 4946(c) (relating to definitions and special rules for chapter 42) is amended—

(A) by striking ''or'' at the end of paragraph (5),

(B) by striking the period at the end of paragraph (6) and inserting '', or'', and

(C) by adding at the end the following new paragraph:

''(7) a member of the Internal Revenue Service Oversight Board.''.

(2) The table of sections for subchapter A of chapter 80 is amended by striking the item relating to section 7802 and inserting the following new item:

''Sec. 7802. Internal Revenue Service Oversight Board.''

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

**SEC. 102. COMMISSIONER OF INTERNAL REVENUE; CHIEF COUNSEL; OTHER OFFICIALS.**

(a) IN GENERAL.—Section 7803 (relating to other personnel) is amended to read as follows:

**''SEC. 7803. COMMISSIONER OF INTERNAL REVENUE; CHIEF COUNSEL; OTHER OFFICIALS.**

''(a) COMMISSIONER OF INTERNAL REVENUE.—

''(1) APPOINTMENT.—There shall be in the Department of the Treasury a Commissioner of Internal Revenue who shall be appointed by the Internal Revenue Service Oversight Board to a 5-year term and compensated without regard to chapters 33, 51, and 53 of title 5, United States Code. The appointment shall be made on the basis of demonstrated ability in management and without regard to political affiliation or activity. The Board may reappoint the Commissioner to subsequent terms so long as performance is satisfactory or better.

''(2) DUTIES.—The Commissioner shall—

''(A) administer, manage, conduct, direct, and supervise the execution and application of the internal revenue laws or related statutes and tax conventions to which the United States is a party; and

''(B) when a vacancy occurs, recommend a candidate for appointment as Chief Counsel for the Internal Revenue Service to the President, and may recommend the removal of such Chief Counsel to the President.

''(3) CONSULTATION WITH BOARD.—The Commissioner shall consult with the Board on all matters set forth in paragraphs (2) and (3) (other than subparagraph (A)) of section 7802(d)(2).

''(4) PAY.—The Commissioner is authorized to be paid at an annual rate of basic pay not to exceed the maximum rate of basic pay of level II of the Executive Schedule under section 5311 of title 5, United States Code, including any applicable locality-based comparability payment that may be authorized under section 5304 of such title 5.

''(b) CHIEF COUNSEL FOR THE INTERNAL REVENUE SERVICE.—

''(1) APPOINTMENT.—There shall be in the Department of the Treasury a Chief Counsel

for the Internal Revenue Service who shall be appointed by the President, by and with the advice and consent of the Senate.

''(2) DUTIES.—The Chief Counsel shall be the chief law officer for the Internal Revenue Service and shall perform such duties as may be prescribed by the Secretary of the Treasury. To the extent that the Chief Counsel performs duties relating to the development of rules and regulations promulgated under this title, final decision making authority shall remain with the Secretary.

''(3) PAY.—The Chief Counsel is authorized to be paid at an annual rate of basic pay not to exceed the maximum rate of basic pay of level III of the Executive Schedule under section 5311 of title 5, United States Code, including any applicable locality-based comparability payment that may be authorized under section 5304 of such title 5.

''(c) ASSISTANT COMMISSIONER FOR EMPLOYEE PLANS AND EXEMPT ORGANIZATIONS.—

''(1) ESTABLISHMENT OF OFFICE.—There is established within the Internal Revenue Service an office to be known as the 'Office of Employee Plans and Exempt Organizations' to be under the supervision and direction of an Assistant Commissioner of Internal Revenue. As head of the Office, the Assistant Commissioner shall be responsible for carrying out such functions as the Secretary may prescribe with respect to organizations exempt from tax under section 501(a) and with respect to plans to which part I of subchapter D of chapter 1 applies (and with respect to organizations designed to be exempt under such section and plans designed to be plans to which such part applies) and other nonqualified deferred compensation arrangements. The Assistant Commissioner shall report annually to the Commissioner with respect to the Assistant Commissioner's responsibilities under this section.

''(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be apxpropriated to the Internal Revenue Service solely to carry out the functions of the Office an amount equal to the sum of—

''(A) so much of the collection from taxes under section 4940 (relating to excise tax based on investment income) as would have been collected if the rate of tax under such section was 2 percent during the second preceding fiscal year, and

''(B) the greater of—

''(i) an amount equal to the amount described in subparagraph (A), or

''(ii) $30,000,000.

''(3) USER FEES.—All user fees collected by the Office shall be dedicated to carry out the functions of the Office.

''(d) OFFICE OF TAXPAYER ADVOCATE.—

''(1) IN GENERAL.—

''(A) There is established in the Internal Revenue Service an office to be known as the 'Office of the Taxpayer Advocate'. Such office shall be under the supervision and direction of an official to be known as the 'Taxpayer Advocate' who shall be appointed by and report directly to the Commissioner of Internal Revenue, with the approval of the Internal Revenue Service Oversight Board. The Taxpayer Advocate shall be entitled to compensation at the same rate as the highest level official reporting directly to the Commissioner of Internal Revenue.

''(B) As a qualification for appointment as the Taxpayer Advocate, an individual must have substantial experience representing taxpayers before the Internal Revenue Service or with taxpayer rights issues.

''(C) An individual who, before being appointed as the Taxpayer Advocate, was an officer or employee of the Internal Revenue Service may be so appointed only if such individual agrees not to accept any employment with the Internal Revenue Service for at least 5 years after ceasing to be the Taxpayer Advocate.

''(2) FUNCTIONS OF OFFICE.—

''(A) IN GENERAL.—It shall be the function of the Office of Taxpayer Advocate to—

''(i) assist taxpayers in resolving problems with the Internal Revenue Service,

''(ii) identify areas in which taxpayers have problems in dealings with the Internal Revenue Service,

''(iii) to the extent possible, propose changes in the administrative practices of the Internal Revenue Service to mitigate problems identified under clause (ii), and

''(iv) identify potential legislative changes which may be appropriate to mitigate such problems.

''(B) ANNUAL REPORTS.—

''(i) OBJECTIVES.—Not later than June 30 of each calendar year after 1995, the Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the objectives of the Taxpayer Advocate for the fiscal year beginning in such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information.

''(ii) ACTIVITIES.—Not later than December 31 of each calendar year after 1995, the Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the activities of the Taxpayer Advocate during the fiscal year ending during such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and shall—

''(I) identify the initiatives the Taxpayer Advocate has taken on improving taxpayer services and Internal Revenue Service responsiveness,

''(II) contain recommendations received from individuals with the authority to issue Taxpayer Assistance Orders under section 7811,

''(III) contain a summary of at least 20 of the most serious problems encountered by taxpayers, including a description of the nature of such problems,

''(IV) contain an inventory of the items described in subclauses (I), (II), and (III) for which action has been taken and the result of such action,

''(V) contain an inventory of the items described in subclauses (I), (II), and (III) for which action remains to be completed and the period during which each item has remained on such inventory,

''(VI) contain an inventory of the items described in subclauses (I), (II), and (III) for which no action has been taken, the period during which each item has remained on such inventory, the reasons for the inaction, and identify any Internal Revenue Service official who is responsible for such inaction,

''(VII) identify any Taxpayer Assistance Order which was not honored by the Internal Revenue Service in a timely manner, as specified under section 7811(b),

''(VIII) contain recommendations for such administrative and legislative action as may be appropriate to resolve problems encountered by taxpayers,

''(IX) describe the extent to which regional problem resolution officers participate in the selection and evaluation of local problem resolution officers,

''(X) identify areas of the tax law that impose significant compliance burdens on taxpayers or the Internal Revenue Service, including specific recommendations for remedying these problems,

''(XI) in conjunction with the National Director of Appeals, identify the 10 most litigated issues for each category of taxpayers (e.g., individuals, self-employed individuals, and small businesses), including recommendations for mitigating such disputes, and

''(XII) include such other information as the Taxpayer Advocate may deem advisable.

''(iii) REPORT TO BE SUBMITTED DIRECTLY.—Each report required under this subparagraph shall be provided directly to the Committees described in clauses (i) and (ii) without any prior review or comment from the Commissioner, the Internal Revenue Service Oversight Board, the Secretary of the Treasury, any other officer or employee of the Department of the Treasury, or the Office of Management and Budget.

''(C) OTHER RESPONSIBILITIES.—The Taxpayer Advocate shall—

''(i) monitor the coverage and geographic allocation of problem resolution officers,

''(ii) develop guidance to be distributed to all Internal Revenue Service officers and employees outlining the criteria for referral of taxpayer inquiries to problem resolution officers,

''(iii) ensure that the local telephone numbers for the problem resolution officer in each internal revenue district is published and available to taxpayers, and

''(iv) in conjunction with the Commissioner, develop career paths for problem resolution officers choosing to make a career in the Office of the Taxpayer Advocate.

''(3) RESPONSIBILITIES OF COMMISSIONER.—The Commissioner shall establish procedures requiring a formal response to all recommendations submitted to the Commissioner by the Taxpayer Advocate within 3 months after submission to the Commissioner.''.

(b) AMENDMENT OF PRESIDENT'S AUTHORITY TO APPOINT CHIEF COUNSEL FOR INTERNAL REVENUE SERVICE.—

(1) Paragraph (2) of section 7801(b) (relating to the office of General Counsel for the Department) is amended to read as follows:

''(2) ASSISTANT GENERAL COUNSELS.—The Secretary of the Treasury may appoint, without regard to the provisions of the civil service laws, and fix the duties of not to exceed five assistant General Counsels.''.

(2)(A) Subsection (f)(2) of section 301 of title 31, United States Code, is amended by striking ''an Assistant General Counsel who shall be the'' and inserting ''a''.

(B) Section 301 of such title 31 is amended by adding at the end the following new subsection:

''(h) CROSS REFERENCE.—For provisions relating to the appointment of officers and employees of the Internal Revenue Service, see subchapter A of chapter 80 of the Internal Revenue Code of 1986.''.

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subchapter A of chapter 80 is amended by striking the item relating to section 7803 and inserting the following new item:

''Sec. 7803. Commissioner of Internal Revenue; Chief Counsel; other officials.''

(2) Subsection (b) of section 5109 of title 5, United States Code, is amended by striking ''7802(b)'' and inserting ''7803(c)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

**SEC. 103. OTHER PERSONNEL.**

(a) IN GENERAL.—Section 7804 (relating to the effect of reorganization plans) is amended to read as follows:

**''SEC. 7804. OTHER PERSONNEL.**

''(a) APPOINTMENT AND SUPERVISION.—The Commissioner of Internal Revenue is authorized to employ such number of persons as the Commissioner deems proper for the administration and enforcement of the internal revenue laws, and the Commissioner shall issue

all necessary directions, instructions, orders, and rules applicable to such persons.

''(b) POSTS OF DUTY OF EMPLOYEES IN FIELD SERVICE OR TRAVELING.—

''(1) DESIGNATION OF POST OF DUTY.—The Commissioner shall determine and designate the posts of duty of all such persons engaged in field work or traveling on official business outside of the District of Columbia.

''(2) DETAIL OF PERSONNEL FROM FIELD SERVICE.—The Commissioner may order any such person engaged in field work to duty in the District of Columbia, for such periods as the Commissioner may prescribe, and to any designated post of duty outside the District of Columbia upon the completion of such duty.

''(c) DELINQUENT INTERNAL REVENUE OFFICERS AND EMPLOYEES.—If any officer or employee of the Treasury Department acting in connection with the internal revenue laws fails to account for and pay over any amount of money or property collected or received by him in connection with the internal revenue laws, the Secretary shall issue notice and demand to such officer or employee for payment of the amount which he failed to account for and pay over, and, upon failure to pay the amount demanded within the time specified in such notice, the amount so demanded shall be deemed imposed upon such officer or employee and assessed upon the date of such notice and demand, and the provisions of chapter 64 and all other provisions of law relating to the collection of assessed taxes shall be applicable in respect of such amount.''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 6344 is amended by striking ''section 7803(d)'' and inserting ''section 7804(c)''.

(2) The table of sections for subchapter A of chapter 80 is amended by striking the item relating to section 7804 and inserting the following new item:

''Sec. 7804. Other personnel.''

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

**Subtitle B—Personnel Flexibilities**

**SEC. 111. PERSONNEL FLEXIBILITIES.**

(a) IN GENERAL.—Part III of title 5, United States Code, is amended by adding at the end the following new subpart:

**''Subpart I—Miscellaneous**

**''CHAPTER 93—PERSONNEL FLEXIBILITIES RELATING TO THE INTERNAL REVENUE SERVICE**



**''§ 9301. General requirements**

''(a) CONFORMANCE WITH MERIT SYSTEM PRINCIPLES, ETC.—Any flexibilities under this chapter shall be exercised in a manner consistent with—

''(1) chapter 23, relating to merit system principles and prohibited personnel practices; and

''(2) provisions of this title (outside of this subpart) relating to preference eligibles.

''(b) REQUIREMENT RELATING TO UNITS REPRESENTED BY LABOR ORGANIZATIONS.—

''(1) WRITTEN AGREEMENT REQUIRED.—Employees within a unit with respect to which a labor organization is accorded exclusive recognition under chapter 71 shall not be subject to the exercise of any flexibility under section 9302, 9303, 9304, or 9305, unless there is a written agreement between the Internal Revenue Service and the organization permitting such exercise.

''(2) DEFINITION OF A WRITTEN AGREEMENT.—In order to satisfy paragraph (1), a written agreement—

''(A) need not be a collective bargaining agreement within the meaning of section 7103(8); and

''(B) may not be an agreement imposed by the Federal Service Impasses Panel under section 7119.

''(c) FLEXIBILITIES FOR WHICH OPM APPROVAL IS REQUIRED.—

''(1) IN GENERAL.—Except as provided in paragraph (2), flexibilities under this chapter may be exercised by the Internal Revenue Service without prior approval of the Office of Personnel Management.

''(2) EXCEPTIONS.—The flexibilities under subsections (c) through (e) of section 9303 may be exercised by the Internal Revenue Service only after a specific plan describing how those flexibilities are to be exercised has been submitted to and approved, in writing, by the Director of the Office of Personnel Management.

**''§ 9302. Flexibilities relating to performance management**

''(a) IN GENERAL.—The Commissioner of Internal Revenue shall, within 180 days after the date of the enactment of this chapter, establish a performance management system which—

''(1) subject to section 9301(b), shall cover all employees of the Internal Revenue Service other than—

''(A) the members of the Internal Revenue Service Oversight Board;

''(B) the Commissioner of Internal Revenue; and

''(C) the Chief Counsel for the Internal Revenue Service;

''(2) shall maintain individual accountability by—

''(A) establishing retention standards which—

''(i) shall permit the accurate evaluation of each employee's performance on the basis of criteria relating to the duties and responsibilities of the position held by such employee; and

''(ii) shall be communicated to an employee before the start of any period with respect to which the performance of such employee is to be evaluated using such standards;

''(B) providing for periodic performance evaluations to determine whether retention standards are being met; and

''(C) with respect to any employee whose performance does not meet retention standards, using the results of such employee's performance evaluation as a basis for—

''(i) denying increases in basic pay, promotions, and credit for performance under section 3502; and

''(ii) the taking of other appropriate action, such as a reassignment or an action under chapter 43; and

''(3) shall provide for—

''(A) establishing goals or objectives for individual, group, or organizational performance (or any combination thereof), consistent with Internal Revenue Service performance planning procedures, including those established under the Government Performance and Results Act of 1993, the Information Technology Management Reform Act of 1996, Revenue Procedure 64–22 (as in effect on July 30, 1997), and taxpayer service surveys, and communicating such goals or objectives to employees;

''(B) using such goals and objectives to make performance distinctions among employees or groups of employees; and

''(C) using assessments under this paragraph, in combination with performance evaluations under paragraph (2), as a basis for granting employee awards, adjusting an employee's rate of basic pay, and taking such other personnel action as may be appropriate.

For purposes of this title, performance of an employee during any period in which such employee is subject to retention standards under paragraph (2) shall be considered to be 'unacceptable' if the performance of such employee during such period fails to meet any of those standards.

''(b) AWARDS.—

''(1) FOR SUPERIOR ACCOMPLISHMENTS.—In the case of an employee of the Internal Revenue Service, section 4502(b) shall be applied by substituting 'with the approval of the Commissioner of Internal Revenue' for 'with the approval of the Office'.

''(2) FOR EMPLOYEES WHO REPORT DIRECTLY TO THE COMMISSIONER.—

''(A) IN GENERAL.—In the case of an employee of the Internal Revenue Service who reports directly to the Commissioner of Internal Revenue, a cash award in an amount up to 50 percent of such employee's annual rate of basic pay may be made if the Commissioner finds such an award to be warranted based on such employee's performance.

''(B) NATURE OF AN AWARD.—A cash award under this paragraph shall not be considered to be part of basic pay.

''(C) TAX ENFORCEMENT RESULTS.—A cash award under this paragraph may not be based solely on tax enforcement results.

''(D) ELIGIBLE EMPLOYEES.—Whether or not an employee is an employee who reports directly to the Commissioner of Internal Revenue shall, for purposes of this paragraph, be determined under regulations which the Commissioner shall prescribe.

''(E) LIMITATION ON COMPENSATION.—For purposes of applying section 5307 to an employee in connection with any calendar year to which an award made under this paragraph to such employee is attributable, subsection (a)(1) of such section shall be applied by substituting 'to equal or exceed the annual rate of compensation for the President for such calendar year' for 'to exceed the annual rate of basic pay payable for level I of the Executive Schedule, as of the end of such calendar year'.

''(3) BASED ON SAVINGS.—

''(A) IN GENERAL.—The Commissioner of Internal Revenue may authorize the payment of cash awards to employees based on documented financial savings achieved by a group or organization which such employees comprise, if such payments are made pursuant to a plan which—

''(i) specifies minimum levels of service and quality to be maintained while achieving such financial savings; and

''(ii) is in conformance with criteria prescribed by the Office of Personnel Management.

''(B) FUNDING.—A cash award under this paragraph may be paid from the fund or appropriation available to the activity primarily benefiting or the various activities benefiting.

''(C) TAX ENFORCEMENT RESULTS.—A cash award under this paragraph may not be based solely on tax enforcement results.

''(c) OTHER PROVISIONS.—

''(1) NOTICE PROVISIONS.—In applying sections 4303(b)(1)(A) and 7513(b)(1) to employees of the Internal Revenue Service, '15 days' shall be substituted for '30 days'.

''(2) APPEALS.—Notwithstanding the second sentence of section 5335(c), an employee of the Internal Revenue Service shall not have a right to appeal the denial of a periodic step increase under section 5335 to the Merit Systems Protection Board.

**"§ 9303. Classification and pay flexibilities**

''(a) BROAD-BANDED SYSTEMS.—

''(1) DEFINITIONS.—For purposes of this subsection—

''(A) the term 'broad-banded system' means a system under which positions are classified and pay for service in any such position is fixed through the use of pay bands, rather than under—

''(i) chapter 51 and subchapter III of chapter 53; or

''(ii) subchapter IV of chapter 53; and

''(B) the term 'pay band' means, with respect to positions in 1 or more occupational series, a pay range—

''(i) consisting of—

''(I) 2 or more consecutive grades of the General Schedule; or

''(II) 2 or more consecutive pay ranges of such other pay or wage schedule as would otherwise apply (but for this section); and

''(ii) the minimum rate for which is the minimum rate for the lower (or lowest) grade or range in the pay band and the maximum rate for which is the maximum rate for the higher (or highest) grade or range in the pay band, including any locality-based and other similar comparability payments.

''(2) AUTHORITY.—The Commissioner of Internal Revenue may, subject to criteria to be prescribed by the Office of Personnel Management, establish one or more broad-banded systems covering all or any portion of its workforce which would otherwise be subject to the provisions of law cited in clause (i) or (ii) of subsection (a)(1)(A), except for any position classified by statute.

''(3) CRITERIA.—The criteria to be prescribed by the Office shall, at a minimum—

''(A) ensure that the structure of any broad-banded system maintains the principle of equal pay for substantially equal work;

''(B) establish the minimum (but not less than 2) and maximum number of grades or pay ranges that may be combined into pay bands;

''(C) establish requirements for adjusting the pay of an employee within a pay band;

''(D) establish requirements for setting the pay of a supervisory employee whose position is in a pay band or who supervises employees whose positions are in pay bands; and

''(E) establish requirements and methodologies for setting the pay of an employee upon conversion to a broad-banded system, initial appointment, change of position or type of appointment (including promotion, demotion, transfer, reassignment, reinstatement, placement in another pay band, or movement to a different geographic location), and movement between a broad-banded system and another pay system.

''(4) INFORMATION.—The Commissioner of Internal Revenue shall submit to the Office such information relating to its broad-banded systems as the Office may require.

''(5) REVIEW AND REVOCATION AUTHORITY.—The Office may, with respect to any broad-banded system under this subsection, and in accordance with regulations which it shall prescribe, exercise with respect to any broad-banded system under this subsection authorities similar to those available to it under sections 5110 and 5111 with respect to classifications under chapter 51.

''(b) SINGLE PAY-BAND SYSTEM.—

''(1) IN GENERAL.—The Commissioner of Internal Revenue may, with respect to employees who remain subject to chapter 51 and subchapter III of chapter 53 (or subchapter IV of chapter 53), fix rates of pay under a single pay-band system.

''(2) DEFINITION.—For purposes of this subsection, the term 'single pay-band system' means, for pay-setting purposes, a system similar to the pay-setting aspects of a broad-banded system under subsection (a), but consisting of only a single grade or pay range, under which pay may be fixed at any rate not less than the minimum and not more than the maximum rate which (but for this section) would otherwise apply with respect to the grade or pay range involved, including any locality-based and other similar comparability payments.

''(3) SPECIAL RULES.—

''(A) PROMOTION OR TRANSFER.—An employee under this subsection who is promoted or transferred to a position in a higher grade shall be entitled to basic pay at a rate determined under criteria prescribed by the Office of Personnel Management based on section 5334(b).

''(B) PERFORMANCE INCREASES.—In lieu of periodic step-increases under section 5335, an employees under this subsection who meets retention standards under section 9302(a)(2)(A) shall be entitled to performance increases under criteria prescribed by the Office. An increase under this subparagraph shall be equal to one-ninth of the difference between the minimum and maximum rates of pay for the applicable grade or pay range

''(C) INCREASES FOR EXCEPTIONAL PERFORMANCE.—In lieu of additional step-increases under section 5336, an employee under this subsection who has demonstrated exceptional performance shall be eligible for a pay increase under this subparagraph under criteria prescribed by the Office. An increase under this subparagraph may not exceed the amount of an increase under subparagraph (B).

''(c) ALTERNATIVE CLASSIFICATION SYSTEMS.—

''(1) IN GENERAL.—Subject to section 9301(c), the Commissioner of Internal Revenue may establish 1 or more alternative classification systems that include any positions or groups of positions that the Commissioner determines, for reasons of effective administration—

''(A) should not be classified under chapter 51 or paid under the General Schedule;

''(B) should not be classified or paid under subchapter IV of chapter 53; or

''(C) should not be paid under section 5376.

''(2) LIMITATIONS.—An alternative classification system under this subsection may not—

''(A) with respect to any position that (but for this section) would otherwise be subject to the provisions of law cited in subparagraph (A) or (B) of paragraph (1), establish a rate of basic pay in excess of the maximum rate for grade GS–15 of the General Schedule, including any locality-based and other similar comparability payments; and

''(B) with respect to any position that (but for this section) would otherwise be subject to the provision of law cited in paragraph (1)(C), establish a rate of basic pay in excess of the annual rate of basic pay of the Commissioner of Internal Revenue.

''(d) GRADE AND PAY RETENTION.—Subject to section 9301(c), the Commissioner of Internal Revenue may, with respect to employees who are covered by a broad-banded system under subsection (a) or an alternative classification system under subsection (c), provide for variations from the provisions of subchapter VI of chapter 53.

''(e) RECRUITMENT AND RETENTION BONUSES; RETENTION ALLOWANCES.—Subject to section 9301(c), the Commissioner of Internal Revenue may, with respect to its employees, provide for variations from the provisions of sections 5753 and 5754.

**"§ 9304. Staffing flexibilities**

''(a) IN GENERAL.—

''(1) PERMANENT APPOINTMENT IN THE COMPETITIVE SERVICE.—Except as otherwise provided by this subsection, an employee of the Internal Revenue Service may be selected for a permanent appointment in the competitive service in the Internal Revenue Service through internal competitive promotion procedures when the following conditions are met:

''(A) The employee has completed 2 years of current continuous service in the competitive service under a term appointment or any combination of term appointments.

''(B) Such term appointment or appointments were made under competitive procedures prescribed for permanent appointments.

''(C) The employee's performance under such term appointment or appointments met established retention standards.

''(D) The vacancy announcement for the term appointment from which the conversion is made stated that there was a potential for subsequent conversion to a permanent appointment.

''(2) CONDITION.—An appointment under this subsection may be made only to a position the duties and responsibilities of which are similar to those of the position held by the employee at the time of conversion (referred to in paragraph (1)(D)).

''(b) RATING SYSTEMS.—

''(1) IN GENERAL.—Notwithstanding subchapter I of chapter 33, the Commissioner of Internal Revenue may establish category rating systems for evaluating job applicants for positions in the competitive service, under which qualified candidates are divided into 2 or more quality categories on the basis of relative degrees of merit, rather than assigned individual numerical ratings. Each applicant who meets the minimum qualification requirements for the position to be filled shall be assigned to an appropriate category based on an evaluation of the applicant's knowledge, skills, and abilities relative to those needed for successful performance in the job to be filled.

''(2) TREATMENT OF PREFERENCE ELIGIBLES.—Within each quality category established under paragraph (1), preference eligibles shall be listed ahead of individuals who are not preference eligibles. For other than scientific and professional positions at or higher than GS–9 (or equivalent), preference eligibles who have a compensable service-connected disability of 10 percent or more, and who meet the minimum qualification standards, shall be listed in the highest quality category.

''(3) SELECTION PROCESS.—An appointing authority may select any applicant from the highest quality category or, if fewer than 3 candidates have been assigned to the highest quality category, from a merged category consisting of the highest and second highest quality categories. Notwithstanding the preceding sentence, the appointing authority may not pass over a preference eligible in the same or a higher category from which selection is made, unless the requirements of section 3317(b) or 3318(b), as applicable, are satisfied, except that in no event may certification of a preference eligible under this subsection be discontinued by the Internal Revenue Service under section 3317(b) before the end of the 6-month period beginning on the date of such employee's first certification.

''(c) MAXIMUM PERIOD FOR WHICH EMPLOYEE MAY BE DETAILED.—The 120-day limitation under section 3341(b)(1) for details and renewals of details shall not apply with respect to the Internal Revenue Service.

''(d) INVOLUNTARY REASSIGNMENTS AND REMOVALS OF CAREER APPOINTEES IN THE SENIOR EXECUTIVE SERVICE.—Neither section 3395(e)(1) nor section 3592(b)(1) shall apply with respect to the Internal Revenue Service.

''(e) PROBATIONARY PERIODS.—Notwithstanding any other provision of law or regulation, the Commissioner of Internal Revenue may establish a period of probation under section 3321 of up to 3 years for any position if, as determined by the Commissioner, a shorter period would be insufficient for the incumbent to demonstrate complete proficiency in such position.

''(f) PROVISIONS THAT REMAIN APPLICABLE.—No provision of this section exempts the Internal Revenue Service from—

''(1) any employment priorities established under direction of the President for the placement of surplus or displaced employees; or

''(2) its obligations under any court order or decree relating to the employment practices of the Internal Revenue Service.

**''§ 9305. Flexibilities relating to demonstration projects**

''(a) IN GENERAL.—For purposes of applying section 4703 with respect to the Internal Revenue Service—

''(1) paragraph (1) of subsection (b) of such section shall be deemed to read as follows:

'' '(1) develop a plan for such project which describes its purpose, the employees to be covered, the project itself, its anticipated outcomes, and the method of evaluating the project;';

''(2) paragraph (3) of subsection (b) of such section shall be disregarded;

''(3) paragraph (4) of subsection (b) of such section shall be applied by substituting '30 days' for '180 days';

''(4) paragraph (6) of subsection (b) of such section shall be deemed to read as follows:

'' '(6) provide each House of the Congress with the final version of the plan.';

''(5) paragraph (1) of subsection (c) of such section shall be deemed to read as follows:

'' '(1) subchapter V of chapter 63 or subpart G of part III;'; and

''(6) subsection (d)(1) of such section shall be disregarded.

''(b) NUMERICAL LIMITATION.—For purposes of applying the numerical limitation under subsection (d)(2) of section 4703, a demonstration project shall not be counted if or to the extent that it involves the Internal Revenue Service.''

(b) CLERICAL AMENDMENT.—The analysis for part III of title 5, United States Code, is amended by adding at the end the following:

**''Subpart I—Miscellaneous**

''93. Personnel Flexibilities Relating to the Internal Revenue Service ..... 9301''.

(c) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

## TITLE II—ELECTRONIC FILING

**SEC. 201. ELECTRONIC FILING OF TAX AND INFORMATION RETURNS.**

(a) IN GENERAL.—It is the policy of the Congress that paperless filing should be the preferred and most convenient means of filing tax and information returns, and that by the year 2007, no more than 20 percent of all tax returns should be filed on paper.

(b) STRATEGIC PLAN.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury or the Secretary's delegate (hereafter in this section referred to as the ''Secretary'') shall implement a plan to eliminate barriers, provide incentives, and use competitive market forces to increase electronic filing gradually over the next 10 years while maintaining processing times for paper returns at 40 days.

(2) ELECTRONIC COMMERCE ADVISORY GROUP.—To ensure that the Secretary receives input from the private sector in the development and implementation of the plan required by paragraph (1), the Secretary shall convene an electronic commerce advisory group to include representatives from the tax practitioner, preparer, and computerized tax processor communities and other representatives from the electronic filing industry.

(c) INCENTIVES.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall implement procedures to provide for the payment of incentives to transmitters of qualified electronically filed returns, based on the fair market value of costs to transmit returns electronically.

(2) QUALIFIED ELECTRONICALLY FILED RETURNS.—For purposes of this section, the term ''qualified electronically filed return'' means a return that—

(A) is transmitted electronically to the Internal Revenue Service,

(B) for which the taxpayer was not charged for the cost of such transmission, and

(C) in the case of returns transmitted after December 31, 2004, was prepared by a paid preparer who does not submit any return after such date to the Internal Revenue Service on paper.

(d) ANNUAL REPORTS.—Not later than June 30 of each calendar year after 1997, the Chairperson of the Internal Revenue Service Oversight Board, the Secretary, and the Chairperson of the electronic commerce advisory group established under subsection (b)(2) shall report to the Committees on Ways and Means, Appropriations, and Government Reform and Oversight of the House of Representatives, the Committees on Finance, Appropriations, and Government Affairs of the Senate, and the Joint Committee on Taxation, on—

(1) the progress of the Internal Revenue Service in meeting the policy set forth in subsection (a);

(2) the status of the plan required by subsection (b); and

(3) the necessity of action by the Congress to assist the Internal Revenue Service to satisfy the policy set forth in subsection (a).

**SEC. 202. EXTENSION OF TIME TO FILE FOR ELECTRONIC FILERS.**

(a) IN GENERAL.—Subsection (a) of section 6072 (relating to the time for filing income tax returns) is amended—

(1) by striking ''(a) GENERAL RULE.—In the case of'' and inserting the following:

''(a) GENERAL RULES.—

''(1) PAPER RETURNS.—Except as provided in paragraph (2), in the case of'',

(2) by moving the text 2 ems to the right, and

(3) by adding at the end the following new paragraph:

''(2) ELECTRONICALLY FILED RETURNS.—In the case of returns filed electronically, returns made on the basis of the calendar year shall be filed on or before the 15th day of May following the close of the calendar year and returns made on the basis of a fiscal year shall be filed on or before the 15th day of the fifth month following the close of the fiscal year.''

(b) RETURNS OF CORPORATIONS.—Subsection (b) of section 6072 (relating to the time for filing income tax returns) is amended—

(1) by moving the text 2 ems to the right, and

(2) by adding at the end the following new paragraph:

''(2) ELECTRONICALLY FILED RETURNS.—In the case of returns filed electronically, returns made on the basis of the calendar year shall be filed on or before the 15th day of April following the close of the calendar year and returns made on the basis of a fiscal year shall be filed on or before the 15th day of the 4th month following the close of the fiscal year.''

(c) INFORMATION RETURNS.—Part V of chapter 61 (relating to information and returns) is amended by adding the following new section:

**''SEC. 6073. TIME FOR FILING CERTAIN INFORMATION RETURNS.**

''(a) ELECTRONICALLY FILED RETURNS.—In the case of returns made under subparts B and C of part III of this chapter that are filed electronically, such returns shall be filed on or before March 31 of the year following the calendar year to which such returns relate.

''(b) NOTICE TO RECIPIENTS.—Notwithstanding subsection (a), receipts for employees required under section 6051 and any statements otherwise required to be furnished to persons with respect to whom information is required, shall be furnished to such persons on or before January 31 of the calendar year in which the return under subsection (a) is required to be filed.

''(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns required to be filed after December 31, 1999.''

(d) RETURNS OF PARTNERSHIPS.—Part V of chapter 61 (relating to information and returns) is amended by adding the following new section:

**''SEC. 6074. TIME FOR FILING PARTNERSHIP RETURNS.**

''(a) IN GENERAL.—Except as provided in subsection (b), returns made under section 6031 shall be filed on or before the 15th day of the 3d month following the close of the taxable year of the partnership, except that the return of a partnership consisting entirely of nonresident aliens shall be filed on or before the 15th day of the 6th month following the close of the taxable year of the partnership.

''(b) ELECTRONICALLY FILED RETURNS.—In the case of returns filed electronically, returns shall be filed on or before the 15th day of the 4th month following the close of the taxable year of the partnership.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to returns for taxable years beginning after December 31, 1998.

**SEC. 203. PAPERLESS ELECTRONIC FILING.**

(a) IN GENERAL.—Section 6061 (relating to signing of returns and other documents) is amended—

(1) by striking ''Except as otherwise provided by'' and inserting the following:

''(a) GENERAL RULE.—Except as otherwise provided by subsection (b) and'', and

(2) by adding at the end the following new subsection:

''(b) ELECTRONIC SIGNATURES.—The Secretary shall develop procedures for the acceptance of signatures in digital or other electronic form. Until such time as such procedures are in place, the Secretary shall accept electronically filed returns and other documents on which the required signature(s) appears in typewritten form, but filers of such documents shall be required to retain a signed paper original of all such filings, to be made available to the Secretary for inspection, until the expiration of the applicable period of limitations set forth in chapter 66.''.

(b) DEADLINE FOR ESTABLISHING PROCEDURES.—Not later than December 31, 1998, the Secretary of the Treasury or the Secretary's delegate shall establish procedures to accept, in electronic form, any other information, statements, elections, or schedules, from taxpayers filing returns electronically, so that such taxpayers will not be required to file any paper.

(c) PROCEDURES FOR COMMUNICATIONS BETWEEN IRS AND PREPARER OF ELECTRONICALLY-FILED RETURNS.—Such Secretary shall establish procedures for taxpayers to authorize, on electronically filed returns, the preparer of such returns to communicate with

the Internal Revenue Service on matters included on such returns.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

**SEC. 204. REGULATION OF PREPARERS.**

(a) IN GENERAL.—Subsection (a) of section 330 of title 31, United States Code, is amended—

(1) by striking ''Treasury; and'' in paragraph (1) and inserting ''Treasury and all other persons engaged in the business of preparing returns or otherwise accepting compensation for advising in the preparation of returns,'',

(2) by striking the period at the end of paragraph (2) and inserting '', and'', and

(3) by adding at the end the following:

''(3) establish uniform procedures for regulating preparers of paper and electronic tax and information returns.

No demonstration shall be required under paragraph (2) for persons solely engaged in the business of preparing returns or otherwise accepting compensation for advising in the preparation of returns.''

(b) DIRECTOR OF PRACTICE.—Such section 330 is amended by adding at the end the following new subsection:

''(d) DIRECTOR OF PRACTICE.—There is established within the Department of the Treasury an office to be known as the 'Office of the Director of Practice' to be under the supervision and direction of an official to be known as the 'Director of Practice'. The Director of Practice shall be responsible for regulation of all practice before the Department of the Treasury.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

**SEC. 205. PAPERLESS PAYMENT.**

(a) IN GENERAL.—Section 6311 (relating to payment by check or money order) is amended to read as follows:

**''SEC. 6311. PAYMENT OF TAX BY COMMERCIALLY ACCEPTABLE MEANS.**

''(a) AUTHORITY TO RECEIVE.—It shall be lawful for the Secretary to receive for internal revenue taxes (or in payment of internal revenue stamps) any commercially acceptable means that the Secretary deems appropriate to the extent and under the conditions provided in regulations prescribed by the Secretary.

''(b) ULTIMATE LIABILITY.—If a check, money order, or other method of payment, including payment by credit card, debit card, charge card, or electronic funds transfer so received is not duly paid, or is paid and subsequently charged back to the Secretary, the person by whom such check, money order, or other method of payment has been tendered shall remain liable for the payment of the tax or for the stamps, and for all legal penalties and additions, to the same extent as if such check, money order, or other method of payment had not been tendered.

''(c) LIABILITY OF BANKS AND OTHERS.—If any certified, treasurer's, or cashier's check (or other guaranteed draft), or any money order, or any means of payment that has been guaranteed by a financial institution (such as a credit card, debit card, charge card, or electronic funds transfer transaction which has been guaranteed expressly by a financial institution) so received is not duly paid, the United States shall, in addition to its right to exact payment from the party originally indebted therefor, have a lien for—

''(1) the amount of such check (or draft) upon all assets of the financial institution on which drawn,

''(2) the amount of such money order upon all the assets of the issuer therefor,

''(3) the guaranteed amount of any other transaction upon all the assets of the institution making such guarantee,

and such amount shall be paid out of such assets in preference to any other claims whatsoever against such financial institution, issuer, or guaranteeing institution, except the necessary costs and expenses of administration and the reimbursement of the United States for the amount expended in the redemption of the circulating notes of such financial institution.

''(d) PAYMENT BY OTHER MEANS.—

''(1) AUTHORITY TO PRESCRIBE REGULATIONS.—The Secretary shall prescribe such regulations as the Secretary deems necessary to receive payment by commercially acceptable means, including regulations that—

''(A) specify which methods of payment by commercially acceptable means will be acceptable;

''(B) specify when payment by such means will be considered received;

''(C) identify types of nontax matters related to payment by such means that are to be resolved by persons ultimately liable for payment and financial intermediaries, without the involvement of the Secretary; and

''(D) ensure that tax matters will be resolved by the Secretary, without the involvement of financial intermediaries.

''(2) AUTHORITY TO ENTER INTO CONTRACTS.—Notwithstanding section 3718(f) of title 31, United States Code, the Secretary is authorized to enter into contracts to obtain services relating to receiving payment by other means when cost beneficial to the Government.

''(3) SPECIAL PROVISIONS FOR USE OF CREDIT CARDS.—If use of credit cards is accepted as a method of payment of taxes pursuant to subsection (a)—

''(A) a payment of internal revenue taxes (or a payment for internal revenue stamps) by a person by use of a credit card shall not be subject to section 161 of the Truth-in-Lending Act (15 U.S.C 1666), or to any similar provisions of State law, if the error alleged by the person is an error relating to the underlying tax liability, rather than an error relating to the credit card account such as a computational error or numerical transposition in the credit card transaction or an issue as to whether the person authorized payment by use of the credit card;

''(B) a payment of internal revenue taxes (or a payment for internal revenue stamps) shall not be subject to section 170 of the Truth in Lending Act (15 U.S.C 1666i), or to any similar provisions of State law;

''(C) a payment of internal revenue taxes (or a payment for internal revenue stamps) by a person by use of a debit card shall not be subject to section 908 of the Electronic Fund Transfer Act (15 U.S.C 1693f), or to any similar provisions of State law, if the error alleged by the person is an error relating to the underlying tax liability, rather than an error relating to the debit card account such as a computational error or numerical transposition in the debit card transaction or an issue as to whether the person authorized payment by use of the debit card;

''(D) the term 'creditor' under section 103(f) of the Truth in Lending Act (15 U.S.C 1602(f)) shall not include the Secretary with respect to credit card transactions in payment of internal revenue taxes (or payment for internal revenue stamps); and

''(E) notwithstanding any other provision of law to the contrary, in the case of payment made by credit card or debit card transaction in an amount owed to a person as a result of the correction of an error under section 161 of the Truth in Lending Act (15 U.S.C 1666) or section 908 of the Electronic Fund Transfer Act (15 U.S.C 1693(f)), the Secretary is authorized to provide such amount to such person as a credit to that person's credit card or debit card account through the applicable credit card or debit card system.

''(e) CONFIDENTIALITY OF INFORMATION.—

''(1) IN GENERAL.—Except as otherwise authorized by this subsection, no person may use or disclose any information relating to credit or debit card transactions obtained pursuant to section 6103(k)(8) other than for purposes directly related to the processing of such transactions, or the billing or collection of amounts charged or debited pursuant thereto.

''(2) EXCEPTIONS.—

''(A) Debit or credit card issuers or others acting on behalf of such issuers may also use and disclose such information for purposes directly related to servicing an issuer's accounts.

''(B) Debit or credit card issuers or others directly involved in the processing of credit or debit card transactions or the billing or collection of amounts charged or debited thereto may also use and disclose such information for purposes directly related to—

''(i) statistical risk and profitability assessment,

''(ii) transferring receivables, accounts, or interest therein,

''(iii) auditing the account information,

''(iv) complying with Federal, State, or local law, and

''(v) properly authorized civil, criminal, or regulatory investigation by Federal, State, or local authorities.

''(3) PROCEDURES.—Use and disclosure of information under this paragraph shall be made only to the extent authorized by written procedures promulgated by the Secretary.

''(4) CROSS REFERENCE.—

**''For provision providing for civil damages for violation of paragraph (1), see section 7431.''**

(b) SEPARATE APPROPRIATION REQUIRED FOR PAYMENT OF CREDIT CARD FEES.—No amount may be paid by the United States to a credit card issuer for the right to receive payments of internal revenue taxes by credit card without a separate appropriation therefor.

(c) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 64 is amended by striking the item relating to section 6311 and inserting the following:

''Sec. 6311. Payment of tax by commercially acceptable means.''

(d) AMENDMENTS TO SECTION 6103 AND 7431 WITH RESPECT TO DISCLOSURE AUTHORIZATION.—

(1) Subsection (k) of section 6103 (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end the following new paragraph—

''(8) DISCLOSURE OF INFORMATION TO ADMINISTER SECTION 6311.—The Secretary may disclose returns or return information to financial institutions and others to the extent the Secretary deems necessary for the administration of section 6311. Disclosures of information for purposes other than to accept payments by check or money orders shall be made only to the extent authorized by written procedures promulgated by the Secretary.''.

(2) Section 7431 (relating to civil damages for unauthorized disclosure of returns and return information) is amended by adding at the end the following new subsection:

''(g) SPECIAL RULE FOR INFORMATION OBTAINED UNDER SECTION 6103(k)(8).—For purposes of this section, any reference to section 6103 shall be treated as including a reference to section 6311(e).''.

(3) Section 6103(p)(3)(A) is amended by striking ''or (6)'' and inserting ''(6), or (8)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the

day which is 9 months after the date of the enactment of this Act.

**SEC. 206. RETURN-FREE TAX SYSTEM.**

(a) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate shall develop procedures for the implementation of a return-free tax system under which individuals would be permitted to comply with the Internal Revenue Code of 1986 without making the return required under section 6012 of such Code for taxable years beginning after 2007.

(b) REPORT.—Not later than June 30 of each calendar year after 1999, such Secretary shall report to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation on—

(1) the procedures developed pursuant to subsection (a),

(2) the number and classes of taxpayers that would be permitted to use the procedures developed pursuant to subsection (a),

(3) the changes to the Internal Revenue Code of 1986 that could enhance the use of such a system, and

(4) what additional resources the Internal Revenue Service would need to implement such a system.

**SEC. 207. ACCESS TO ACCOUNT INFORMATION.**

Not later than December 31, 2006, the Secretary of the Treasury or the Secretary's delegate shall develop procedures under which a taxpayer filing returns electronically would be able to review the taxpayer's account electronically, including all necessary safeguards to ensure the privacy of such account information.

## TITLE III—TAXPAYER PROTECTION AND RIGHTS

**SEC. 301. EXPANSION OF AUTHORITY TO ISSUE TAXPAYER ASSISTANCE ORDERS.**

(a) IN GENERAL.—Section 7811(a) (relating to taxpayer assistance orders) is amended—

(1) by striking ''Upon application'' and inserting the following:

''(1) IN GENERAL.—Upon application'',

(2) by moving the text 2 ems to the right, and

(3) by adding at the end the following new paragraph:

''(2) DETERMINATION OF HARDSHIP.—For purposes of determining whether a taxpayer is suffering or about to suffer a significant hardship, the Taxpayer Advocate should consider—

''(A) whether the Internal Revenue Service employee to which such order would issue is following applicable published administrative guidance, including the Internal Revenue Manual,

''(B) whether there is an immediate threat of adverse action,

''(C) whether there has been a delay of more than 30 days in resolving taxpayer account problems, and

''(D) the prospect that the taxpayer will have to pay significant professional fees for representation.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

**SEC. 302. EXPANSION OF AUTHORITY TO AWARD COSTS AND CERTAIN FEES.**

(a) AUTHORITY TO AWARD HIGHER ATTORNEY'S FEES BASED ON COMPLEXITY OF ISSUES.—Clause (iii) of section 7430(c)(1)(B) (relating to the award of costs and certain fees) is amended by inserting '', or the difficulty of the issues presented in the case or the local availability of tax expertise,'' before ''justifies a higher rate''.

(b) AWARD OF ADMINISTRATIVE COSTS INCURRED AFTER 30-DAY LETTER.—

(1) Paragraph (2) of section 7430(c) is amended by striking the last sentence and insert the following:

''Such term shall only include costs incurred on or after whichever of the following is the earliest: (i) the date of the receipt by the taxpayer of the notice of the decision of the Internal Revenue Service Office of Appeals, (ii) the date of the notice of deficiency, or (iii) the date on which the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals is sent.''

(2) Subparagraph (B) of section 7430(c)(7) is amended by striking ''or'' and the end of clause (i), by striking the period at the end of clause (ii) and inserting '', or'', and by adding at the end the following new clause:

''(iii) the date on which the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals is sent.''

(c) AWARD OF FEES FOR CERTAIN ADDITIONAL SERVICES.—Paragraph (3) of section 7430(c) is amended by adding at the end the following new sentence: ''Such term also includes such amounts as the court calculates, based on hours worked and costs expended, for services of an individual (whether or not an attorney) who is authorized to practice before the Tax Court or before the Internal Revenue Service and who represents the taxpayer for no more than a nominal fee.''

(d) DETERMINATION OF PREVAILING PARTY.—Paragraph (4) of section 7430(c) is amended—

(A) by inserting at the end of subparagraph (A) the following new flush sentence:

''For purposes of this section, such section 2412(d)(2)(B) shall be applied by substituting '$5,000,000' for the amount otherwise applicable to individuals, and '$35,000,000' for the amount otherwise applicable to businesses.'', and

(B) by adding at the end the following new subparagraph:

''(D) SAFE HARBOR.—The position of the United States was not substantially justified if the United States has not prevailed on the same issue in at least 3 United States Courts of Appeal.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to proceedings beginning after the date of the enactment of this Act.

**SEC. 303. CIVIL DAMAGES FOR NEGLIGENCE IN COLLECTION ACTIONS.**

(a) IN GENERAL.—Section 7433 (relating to civil damages for certain unauthorized collection actions) is amended—

(1) in subsection (a), by inserting '', or by reason of negligence,'' after ''recklessly or intentionally'', and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by inserting ''($100,000, in the case of negligence)'' after ''$1,000,000'', and

(B) in paragraph (1), by inserting ''or negligent'' after ''reckless or intentional''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to actions of officers or employees of the Internal Revenue Service after the date of the enactment of this Act.

**SEC. 304. DISCLOSURE OF CRITERIA FOR EXAMINATION SELECTION.**

(a) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, incorporate into the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1) a statement which sets forth in simple and nontechnical terms the criteria and procedures for selecting taxpayers for examination. Such statement shall not include any information the disclosure of which would be detrimental to law enforcement, but shall specify the general procedures used by the Internal Revenue Service, including the extent to which taxpayers are selected for examination on the basis of information available in the media or on the basis of information provided to the Internal Revenue Service by informants.

(b) TRANSMISSION TO COMMITTEES OF CONGRESS.—Such Secretary shall transmit drafts of the statement required under subsection (a) (or proposed revisions to any such statement) to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation on the same day.

**SEC. 305. ARCHIVAL OF RECORDS OF INTERNAL REVENUE SERVICE.**

(a) IN GENERAL.—Subsection (l) of section 6103 (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end the following new paragraph:

''(16) DISCLOSURE TO NATIONAL ARCHIVES AND RECORDS ADMINISTRATION.—The Secretary shall, upon written request from the Archivist of the United States, disclose to the Archivist all records of the Internal Revenue Service for purposes of scheduling such records for destruction or for retention in the National Archives. Any such information that is retained in the National Archives shall not be disclosed without the express written approval of the Secretary.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests made by the Archivist after the date of the enactment of this Act.

**SEC. 306. TAX RETURN INFORMATION.**

The Joint Committee on Taxation shall convene a study of the scope and use of provisions regarding taxpayer confidentiality, and shall report the findings of such study, together with such recommendations as it deems appropriate, to the Congress no later than one year after the date of the enactment of this Act. Such study shall be led by a panel of experts, to be appointed by the Joint Committee on Taxation, which shall examine the present protections for taxpayer privacy, the need for third parties to use tax return information, and the ability to achieve greater levels of voluntary compliance by allowing the public to know who is legally required to do so, but does not file tax returns.

**SEC. 307. FREEDOM OF INFORMATION.**

(a) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, develop procedures under which expedited access will be granted to requests under section 551 of title 5, United States Code, when—

(1) there exists widespread and exceptional media interest in the requested information, and

(2) expedited processing is warranted because the information sought involves possible questions about the government's integrity which affect public confidence.

In addition, such procedures shall require the Internal Revenue Service to provide an explanation to the person making the request if the request is not satisfied within 30 days, including a summary of actions taken to date and the expected completion date. Finally, to the extent that any such request is not satisfied in full within 60 days, such person may seek a determination of whether such request should be granted by the appropriate Federal district court.

(b) TRANSMISSION TO COMMITTEES OF CONGRESS.—Such Secretary shall transmit drafts of the procedures required under subsection (a) (or proposed revisions to any such procedures) to the Committee on Ways and Means

of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation on the same day.

**SEC. 308. OFFERS-IN-COMPROMISE.**

(a) IN GENERAL.—Section 7122 (relating to offers-in-compromise) is amended by adding at the end the following new subsection:

''(c) ALLOWANCES.—The Secretary shall develop and publish schedules of national and local allowances to ensure that taxpayers entering into a compromise have an adequate means to provide for basic living expenses.''

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

**SEC. 309. ELIMINATION OF INTEREST DIFFERENTIAL ON OVERPAYMENTS AND UNDERPAYMENTS.**

(a) IN GENERAL.—Subsection (a) of section 6621 (relating to the determination of rate of interest) is amended to read as follows:

''(a) GENERAL RULE.—

''(1) RATE.—The rate established under this section shall be the sum of—

''(A) the Federal short-term rate determined under subsection (b), plus

''(B) the number of percentage points specified by the Secretary.

''(2) DETERMINATION OF PERCENTAGE POINTS.—The number of percentage points specified by the Secretary for purposes of paragraph (1)(B) shall be the number which the Secretary estimates will result in the same net revenue to the Treasury as would have resulted without regard to the amendments made by section 309 of the Internal Revenue Service Restructuring and Reform Act of 1997.''

(b) CONFORMING AMENDMENTS.—

(1) Section 6621 is amended by striking subsection (c).

(2) The following provisions are each amended by striking ''overpayment rate'' and inserting ''rate'': Sections 42(j)(2)(B), 167(g)(2)(C), 460(b)(2)(C), 6343(c), 6427(i)(3)(B), 6611(a), and 7426(g).

(3) The following provisions are each amended by striking ''underpayment rate'' and inserting ''rate'': Sections 42(k)(4)(A)(ii), 148(f)(4)(C)(x)(II), 148(f)(7)(C)(ii), 453A(c)(2)(B), 644(a)(2)(B), 852(e)(3)(A), 4497(c)(2), 6332(d)(1), 6601(a), 6602, 6654(a)(1), 6655(a)(1), and 6655(h)(1).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply for purposes of determining interests for periods after the date of the enactment of this Act.

**SEC. 310. ELIMINATION OF APPLICATION OF FAILURE TO PAY PENALTY DURING PERIOD OF INSTALLMENT AGREEMENT.**

(a) IN GENERAL.—Subsection (c) of section 6651 (relating to the penalty for failure to file tax return or to pay tax) is amended by adding at the end the following new paragraph:

''(3) TOLLING DURING PERIOD OF INSTALLMENT AGREEMENT.—If the amount required to be paid is the subject of an agreement for payment of tax liability in installments made pursuant to section 6159, the additions imposed under subsection (a) shall not apply so long as such agreement remains in effect.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to agreements entered into after the date of the enactment of this Act.

**SEC. 311. SAFE HARBOR FOR QUALIFICATION FOR INSTALLMENT AGREEMENTS.**

(a) IN GENERAL.—Subsection (a) of section 6159 (relating to agreements for payment of tax liability in installments) is amended—

(1) by striking ''The Secretary is'' and inserting the following:

''(1) IN GENERAL.—The Secretary is'',

(2) by moving the test 2 ems to the right, and

(3) by adding at the end the following new paragraph:

''(2) SAFE HARBOR.—The Secretary shall enter into an agreement to accept the payment of a tax liability in installments if—

''(A) the amount of such liability does not exceed $10,000,

''(B) the taxpayer has not failed to file any tax return or pay any tax required to be shown thereon during the immediately preceding 5 years, and

''(C) the taxpayer has not entered into any prior installment agreement under this paragraph.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into after the date of the enactment of this Act.

**SEC. 312. PAYMENT OF TAXES.**

(a) IN GENERAL.—The Secretary of the Treasury or his delegate shall establish such rules, regulations, and procedures as are necessary to require payment of taxes by check or money order to be made payable to the Treasurer, United States of America.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

**SEC. 313. LOW INCOME TAXPAYER CLINICS.**

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

**''SEC. 7525. LOW INCOME TAXPAYER CLINICS.**

''(a) IN GENERAL.—The Secretary shall make grants to provide matching funds for the development, expansion, or continuation of qualified low income taxpayer clinics.

''(b) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED LOW INCOME TAXPAYER CLINIC.—

''(A) IN GENERAL.—The term 'qualified low income taxpayer clinic' means a clinic that—

''(i) represents low income taxpayers in controversies with the Internal Revenue Service,

''(ii) operates programs to inform individuals for whom English is a second language about their rights and responsibilities under this title, and

''(iii) does not charge more than a nominal fee for its services, except for reimbursement of actual costs incurred.

''(B) REPRESENTATION OF LOW INCOME TAXPAYERS.—A clinic meets the requirements of subparagraph (A)(i) if—

''(i) at least 90 percent of the taxpayers represented by the clinic have income which does not exceed 250 percent of the poverty level, as determined in accordance with criteria established by the Director of the Office of Management and Budget, and

''(ii) the amount in controversy for any taxable year generally does not exceed the amount specified in section 7463.

''(2) CLINIC.—The term 'clinic' includes—

''(A) a clinical program at an accredited law school in which students represent low income taxpayers in controversies arising under this title, and

''(B) an organization exempt from tax under section 501(c) which satisfies the requirements of paragraph (1) through representation of taxpayers or referral of taxpayers to qualified representatives.

''(3) QUALIFIED REPRESENTATIVE.—The term 'qualified representative' means any individual (whether or not an attorney) who is authorized to practice before the Internal Revenue Service or the applicable court.

''(c) SPECIAL RULES AND LIMITATIONS.—

''(1) AGGREGATE LIMITATION.—Unless otherwise provided by specific appropriation, the Secretary shall not allocate more than $3,000,000 per year (exclusive of costs of administering the program) to grants under this section.

''(2) LIMITATION ON INDIVIDUAL GRANTS.—A grant under this section shall not exceed $100,000 per year.

''(3) MULTI-YEAR GRANTS.—Upon application of a qualified low income taxpayer clinic, the Secretary is authorized to award a multi-year grant not to exceed 3 years.

''(4) CRITERIA FOR AWARDS.—In determining whether to make a grant under this section, the Secretary shall consider—

''(A) the numbers of taxpayers who will be served by the clinic, including the number of taxpayers in the geographical area for whom English is a second language,

''(B) the existence of other low income taxpayer clinics serving the same population,

''(C) the quality of the program offered by the low income taxpayer clinic, including the qualifications of its administrators and qualified representatives, and its track record, if any, in providing service to low income taxpayers, and

''(D) alternative funding sources available to the clinic, including amounts received from other grants and contributions, and the endowment and resources of the educational institution sponsoring the clinic.

''(5) REQUIREMENT OF MATCHING FUNDS.—A low income taxpayer clinic must provide matching funds on a dollar for dollar basis for all grants provided under this section. Matching funds may include—

''(A) the salary (including fringe benefits) of a faculty member at an educational institution who is teaching in the clinic;

''(B) the salaries of administrative personnel employed in the clinic; and

''(C) the cost of equipment used in the clinic.

Indirect expenses, including general overhead of the educational institution sponsoring the clinic, shall not be counted as matching funds.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new section:

''Sec. 7525. Low income taxpayer clinics.''

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

**SEC. 314. JURISDICTION OF THE TAX COURT.**

(a) INTEREST DETERMINATIONS.—Subsection (c) of section 7481 (relating to the date when Tax Court decisions become final) is amended—

(1) by inserting ''or underpayment'' after ''overpayment'' each place it appears, and

(2) by striking ''petition'' in paragraph (3) and inserting ''motion''.

(b) EXTENSION OF TIME FOR PAYMENT OF ESTATE TAX.—Section 6166 (relating to the extension of time for payment of estate tax) is amended—

(1) by redesignating subsection (k) as subsection (l), and

(2) by inserting after subsection (j) the following new subsection:

''(k) JUDICIAL REVIEW.—The Tax Court shall have jurisdiction to review disputes regarding initial or continuing eligibility for extensions of time for payment under this section, including disputes regarding the proper amount of installment payments required herein.''

(c) SMALL CASE CALENDAR.—

(1) Subsection (a) of section 7463 (relating to disputes involving $10,000 or less) is amended by striking ''$10,000'' each place it appears and inserting ''$25,000''.

(2) The section heading for section 7463 is amended by striking ''$10,000'' and inserting ''$25,000''.

(3) The item relating to section 7463 in the table of sections for part II of subchapter C of chapter 76 is amended by striking ''$10,000'' and inserting ''$25,000''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to proceedings commencing after the date of the enactment of this Act.

**SEC. 315. CATALOGING COMPLAINTS.**

(a) IN GENERAL.—The Commissioner of Internal Revenue shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, develop procedures to catalog and review taxpayer complaints of misconduct by Internal Revenue Service employees. Such procedures should include guidelines for internal review and discipline of employees, as warranted by the scope of such complaints.

(b) HOTLINE.— The Commissioner of Internal Revenue shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, establish a toll-free telephone number for taxpayers to register complaints of misconduct by Internal Revenue Service employees, and shall publish such number in Publication 1.

**SEC. 316. PROCEDURES INVOLVING TAXPAYER INTERVIEWS.**

(a) IN GENERAL.—Paragraph (1) of section 7521(b) (relating to procedures involving taxpayer interviews) is amended to read as follows:

''(1) EXPLANATIONS OF PROCESSES.—An officer or employee of the Internal Revenue Service shall—

''(A) before or at an initial interview, provide to the taxpayer—

''(i) in the case of an in-person interview with the taxpayer relating to the determination of any tax, an explanation of the audit process and the taxpayer's rights under such process, or

''(ii) in the case of an in-person interview with the taxpayer relating to the collection of any tax, an explanation of the collection process and the taxpayer's rights under such process, and

''(B) before an in-person initial interview with the taxpayer relating to the determination of any tax—

''(i) inquire whether the taxpayer is represented by an individual described in subsection (c),

''(ii) explain that the taxpayer has the right to have the interview take place in a reasonable place and that such place does not have to be the taxpayer's home,

''(iii) explain the reasons for the selection of the taxpayer's return for examination, and

''(iv) provide the taxpayer with a written explanation of the applicable burdens of proof on taxpayers and the Internal Revenue Service.

If the taxpayer is represented by an individual described in subsection (c), the interview may not proceed without the presence of such individual unless the taxpayer consents.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to interviews and examinations taking place after the date of the enactment of this Act.

**SEC. 317. EXPLANATION OF JOINT AND SEVERAL LIABILITY.**

(a) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, establish procedures to clearly alert taxpayers of their joint and several liabilities on all tax forms, publications, and instructions. Such procedures shall include explanations of the possible consequences of joint and several liability.

(b) TRANSMISSION TO COMMITTEES OF CONGRESS.—Such Secretary shall transmit drafts of the procedures required under subsection (a) (or proposed revisions to any such procedures) to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation on the same day.

**SEC. 318. PROCEDURES RELATING TO EXTENSIONS OF STATUTE OF LIMITATIONS BY AGREEMENT.**

(a) IN GENERAL.—Paragraph (4) of section 6501(c) (relating to the period for limitations on assessment and collection) is amended—

(1) by striking ''Where'' and inserting the following:

''(A) IN GENERAL.—Where'',

(2) by moving the text 2 ems to the right, and

(3) by adding at the end the following new subparagraph:

''(B) NOTICE TO TAXPAYER OF RIGHT TO REFUSE OR LIMIT EXTENSION.—The Secretary shall notify the taxpayer of the taxpayer's right to refuse to extend the period of limitations, or to limit such extension to particular issues, on each occasion when the taxpayer is requested to provide such consent.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to requests to extend the period of limitations made after the date of the enactment of this Act.

**SEC. 319. REVIEW OF PENALTY ADMINISTRATION.**

The Taxpayer Advocate shall prepare a study and provide an independent report to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation, no later than July 30, 1998, reviewing the administration and implementation by the Internal Revenue Service of the penalty reform recommendations made in the Omnibus Budget Reconciliation Act of 1989, including legislative and administrative recommendations to simplify penalty administration and reduce taxpayer burden.

**SEC. 320. STUDY OF TREATMENT OF ALL TAXPAYERS AS SEPARATE FILING UNITS.**

The Secretary of the Treasury or his delegate and the Comptroller General of the United States shall each conduct separate studies on the feasibility of treating each individual separately for purposes of the Internal Revenue Code of 1986, including recommendations for eliminating the marriage penalty, addressing community property issues, and reducing burden for divorced and separated taxpayers. The reports of each study shall be delivered to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation no later than 180 days after the date of the enactment of this Act.

**SEC. 321. STUDY OF BURDEN OF PROOF.**

The Comptroller General of the United States shall prepare a report on the burdens of proof for taxpayers and the Internal Revenue Service for controversies arising under the Internal Revenue Code of 1986, which shall be delivered to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation no later than 180 days after the date of the enactment of this Act. Such report shall highlight the differences between these burdens and the burdens imposed in other disputes with the Federal Government, and should comment on the impact of changing these burdens on tax administration and taxpayer rights.

## TITLE IV—CONGRESSIONAL ACCOUNTABILITY FOR THE INTERNAL REVENUE SERVICE

### Subtitle A—Oversight

**SEC. 401. EXPANSION OF POWERS OF THE JOINT COMMITTEE ON TAXATION.**

(a) IN GENERAL.—Section 8021 (relating to the powers of the Joint Committee on Taxation) is amended by adding at the end the following new subsections:

''(e) CONSULTANT SERVICES.—The Joint Committee is authorized to procure the services of experts and consultants in accordance with section 3109(b) of title 5, United States Code.

''(f) INVESTIGATIONS.—The Joint Committee shall review all requests (other than requests by a Committee or Subcommittee) for investigations of the Internal Revenue Service by the General Accounting Office, and approve such requests when appropriate, with a view towards eliminating overlapping investigations, ensuring that the General Accounting Office has the capacity to handle the investigation, and ensuring that investigations focus on areas of primary importance to tax administration.

''(g) RELATING TO JOINT HEARINGS.—

''(1) IN GENERAL.—The Chief of Staff, and such other staff as are appointed pursuant to section 8004, shall provide such assistance as is required for joint hearings described in paragraph (2).

''(2) JOINT HEARINGS.—On or before April 1 of each calendar year after 1997, there shall be a joint hearing of two members of the majority and one member of the minority from each of the Committees on Finance, Appropriations, and Government Affairs of the Senate, and the Committees on Ways and Means, Appropriations, and Government Reform and Oversight of the House of Representatives, to review the strategic plans and budget for the Internal Revenue Service. After the conclusion of the annual filing season, there shall be a second annual joint hearing to review other matters outlined in section 8022(3)(C).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

**SEC. 402. COORDINATED OVERSIGHT REPORTS.**

(a) IN GENERAL.—Paragraph (3) of section 8022 (relating to the duties of the Joint Committee on Taxation) is amended to read as follows:

''(3) REPORTS.—

''(A) To report, from time to time, to the Committee on Finance and the Committee on Ways and Means, and, in its discretion, to the Senate or House of Representatives, or both, the results of its investigations, together with such recommendations as it may deem advisable.

''(B) To report, annually, to the Committee on Finance and the Committee on Ways and Means on the overall state of the Federal tax system, together with recommendations with respect to possible simplification proposals and other matters relating to the administration of the Federal tax system as it may deem advisable.

''(C) To report, annually, to the Committees on Finance, Appropriations, and Government Affairs of the Senate, and to the Committees on Ways and Means, Appropriations, and Government Reform and Oversight of the House of Representatives, with respect to—

''(i) strategic and business plans for the Internal Revenue Service;

''(ii) progress of the Internal Revenue Service in meeting its objectives;

''(iii) the budget for the Internal Revenue Service and whether it supports its objectives;

''(iv) progress of the Internal Revenue Service in improving taxpayer service and compliance;

''(v) progress of the Internal Revenue Service on technology modernization; and

''(vi) the annual filing season.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

### Subtitle B—Budget

**SEC. 411. BUDGET DISCRETION.**

(a) IN GENERAL.—

(1) ADJUSTMENTS.—For purposes of the Congressional Budget Act of 1974 and the Balanced Budget and Emergency Deficit Control Act of 1985—

(A) the discretionary spending limits under section 601(a)(2) of the Congressional Budget Act of 1974 (and those limits as cumulatively adjusted) for the current fiscal year and each outyear;

(B) the allocations to the Committees on Appropriations under sections 302(a) and 602(a) of the Congressional Budget Act of 1974; and

(C) the levels for major functional category 800 (General Government) and the appropriate budgetary aggregates in the most recently agreed to concurrent resolution on the budget,

shall be adjusted to reflect the amounts of additional new budget authority or additional outlays reported by the Committee on Appropriations in appropriations legislation (or by the committee of conference on such legislation) for the Internal Revenue Service.

(2) LIMITATION.—Any adjustments made pursuant to paragraph (1) may be made for new initiatives on an annual basis only for—

(A) improvements in taxpayer services, including building an integrated database of taxpayer information accessible to front-line Internal Revenue Service personnel; or

(B) other improvements that the Director of the Congressional Budget Office certifies to the Chairpersons of the Committees on Budget of the Senate and the House of Representatives that such budget authority will not increase the Federal budget deficit,

except that funding for ongoing programs shall be provided through the normal appropriations process.

(b) REVISED LIMITS, ALLOCATIONS, LEVELS, AND AGGREGATES.—Upon the reporting of legislation pursuant to subsection (a), and again upon the submission of a conference report on such legislation in either House (if a conference report is submitted), the Chairpersons of the Committees on the Budget of the Senate and the House of Representatives shall file with their respective Houses appropriately revised—

(1) discretionary spending limits under section 601(a)(2) of the Congressional Budget Act of 1974 (and those limits as cumulatively adjusted) for the current fiscal year and each outyear;

(2) allocations to the Committee on Appropriations under sections 302(a) and 602(a) of that Act; and

(3) levels for major functional category 800 (General Government) and the appropriate budgetary aggregates in the most recently agreed to concurrent resolution on the budget, to carry out this subsection.

These revised discretionary spending limits, allocations, functional levels, and aggregates shall be considered for purposes of congressional enforcement of that Act as the discretionary spending limits, allocations, functional levels, and aggregates.

(c) REPORTING REVISED ALLOCATIONS.—The Committees on Appropriations of the Senate and the House of Representatives may report appropriately revised allocations pursuant to sections 302(b) and 602(b) of the Congressional Budget Act of 1974 to carry out this section.

(d) CONTINGENCIES.—This section shall not apply to any additional new budget authority or additional outlays unless the Director of the Congressional Budget Office certifies to the Chairpersons of the Committees on Appropriation of the Senate and the House of Representatives that the Director or any other outside authority has verified that—

(1) the Internal Revenue Service has provided them with reasonably accurate cost and revenue information;

(2) the Internal Revenue Service has implemented adequate quality service measures consistent with taxpayer rights;

(3) the Internal Revenue Service has obtained a clean opinion on its financial audit of appropriated accounts; and

(4) the Internal Revenue Service has made significant progress towards receiving a clean opinion on its financial audit of custodial accounts.

**SEC. 412. FUNDING FOR CENTURY DATE CHANGE.**

It is the sense of Congress that funding for the Internal Revenue Service efforts to resolve the century date change computing problems should be funded fully to provide for certain resolution of such problems.

**SEC. 413. FINANCIAL MANAGEMENT ADVISORY GROUP.**

The Commissioner shall convene a financial management advisory group consisting of individuals with expertise in governmental accounting and auditing from both the private sector and the Government to advise the Commissioner on financial management issues, including—

(1) the continued partnership between the Internal Revenue Service and the General Accounting Office;

(2) the financial accounting aspects of the Internal Revenue Service's system modernization;

(3) the necessity and utility of year-round auditing; and

(4) the Commissioner's plans for improving its financial management system.

### Subtitle C—Tax Law Complexity

**SEC. 421. ROLE OF THE INTERNAL REVENUE SERVICE.**

It is the sense of Congress that the Internal Revenue Service should provide the Congress with an independent view of tax administration, and that during the legislative process, the tax writing committees of the Congress should hear from front-line technical experts at the Internal Revenue Service with respect to the administrability of pending amendments to the Internal Revenue Code of 1986.

**SEC. 422. TAX COMPLEXITY ANALYSIS.**

(a) IN GENERAL.—Chapter 92 (relating to powers and duties of the Joint Committee on Taxation) is amended by adding at the end the following new section:

**''SEC. 8024. TAX COMPLEXITY ANALYSIS.**

''(a) IN GENERAL.—

''(1) REPORTED BILLS AND RESOLUTIONS.—When a committee of the Senate or House of Representatives reports a bill or joint resolution that includes any provision amending the Internal Revenue Code of 1986, the report for such bill or joint resolution shall contain a Tax Complexity Analysis prepared by the Joint Committee on Taxation for each provision therein.

''(2) AMENDED BILLS AND JOINT RESOLUTIONS; CONFERENCE REPORTS.—If a bill or joint resolution is passed in an amended form (including if passed by one House as an amendment in the nature of a substitute for the text of a bill or joint resolution from the other House) or is reported by a committee of conference in amended form, and the amended form contains an amendment to the Internal Revenue Code of 1986 not previously considered by either House, then the committee of conference shall ensure that the Joint Committee on Taxation prepares a Tax Complexity Analysis for each provision therein.

''(b) CONTENT OF COMPLEXITY ANALYSIS.—Each Tax Complexity Analysis must address—

''(1) whether the provision is new, modifies or replaces existing law, and whether hearings were held to discuss the proposal and whether the Internal Revenue Service provided input as to its administrability;

''(2) when the provision becomes effective, and corresponding compliance requirements on taxpayers (e.g., effective on date of enactment, phased in, or retroactive);

''(3) whether new Internal Revenue Service forms or worksheets are needed, whether existing forms or worksheets must be modified, and whether the effective date allows sufficient time for the Internal Revenue Service to prepare such forms and educate taxpayers;

''(4) necessity of additional interpretive guidance (e.g., regulations, rulings, and notices);

''(5) the extent to which the proposal relies on concepts contained in existing law, including definitions;

''(6) effect on existing record keeping requirements and the activities of taxpayers, complexity of calculations and likely behavioral responses, and standard business practices and resource requirements;

''(7) number, type, and sophistication of affected taxpayers; and

''(8) whether the proposal requires the Internal Revenue Service to assume responsibilities not directly related to raising revenue which could be handled through another Federal agency.

''(c) LEGISLATION SUBJECT TO POINT OF ORDER.—

''(1) IN GENERAL.—It shall not be in order in the Senate or the House of Representatives to consider any bill, joint resolution, amendment, motion, or conference report that is not accompanied by a Tax Complexity Analysis for each provision therein.

''(2) IN THE SENATE.—Upon a point of order being made by any Senator against any provision under this section, and the point of order being sustained by the Chair, such specific provision shall be deemed stricken from the bill, resolution, amendment, amendment in disagreement, or conference report, and may not be offered as an amendment from the floor.

''(3) IN THE HOUSE OF REPRESENTATIVES.—

''(A) It shall not be in order in the House of Representatives to consider a rule or order that waives the application of paragraph (1).

''(B) In order to be cognizable by the Chair, a point of order under this section must specify the precise language on which it is premised.

''(C) As disposition of points of order under this section, the Chair shall put the question of consideration with respect to the proposition that is the subject of the points of order.

''(D) A question of consideration under this section shall be debatable for 10 minutes by each Member initiating a point of order and for 10 minutes by an opponent on each point of order, but shall otherwise by decided without intervening motion except one that the House adjourn or that the Committee of the Whole rise, as the case may be.

''(E) The disposition of the question of consideration under this subsection with respect to a bill or joint resolution shall be considered also to determine the question of consideration under this subsection with respect to an amendment made in order as original text.

''(d) RESPONSIBILITIES OF THE COMMISSIONER.—The Commissioner shall provide the Joint Committee on Taxation with such information as is necessary to prepare a Tax Complexity Analysis on each instance in which such an analysis is required.''

(b) CLERICAL AMENDMENT.—The table of sections for chapter 92 is amended by adding at the end the following new item:

''Sec. 8024. Tax complexity analysis.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to legislation considered on or after the earlier of January 1, 1998, or the 90th day after the date of the enactment of an additional appropriation to carry out section 8024 of the Internal Revenue Code of 1986, as added by this section.

**SEC. 423. SIMPLIFIED TAX AND WAGE REPORTING SYSTEM.**

(a) POLICY.—It is the policy of the Congress that employers should have a single point of filing tax and wage reporting information.

(b) ELECTRONIC FILING OF INFORMATION RETURNS.—The Social Security Administration shall establish procedures no later than December 31, 1998, to accept electronic submissions of tax and wage reporting information from employers, and to forward such information to the Internal Revenue Service, and to the tax administrators of the States, upon request and reimbursement of expenses. For purposes of this paragraph, recipients of tax and wage reporting information from the Social Security Administration shall reimburse the Social Security Administration for its incremental expenses associated with accepting and furnishing such information.

**SEC. 424. COMPLIANCE BURDEN ESTIMATES.**

The Joint Committee on Taxation shall prepare a study of the feasibility of developing a baseline estimate of taxpayers' compliance burdens against which future legislative proposals could be measured.

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By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S. 1097. A bill to reduce acid deposition under the Clean Air Act, and for other purposes; to the Committee on Environment and Public Works.

THE ACID DEPOSITION CONTROL ACT OF 1997.

Mr. MOYNIHAN. Mr. President, I rise today to introduce the Acid Deposition Control Act of 1997, a bill to combat acid rain and help restore health to the Nation's sensitive ecosystems—such as the Adirondack Park in my home State of New York. My friend and colleague, Senator D'AMATO is cosponsor of this measure.

Mr. President, in the 1960's, fishermen in the Adirondacks began to complain about more than the big ones that got away. Fish, once abundant, were not simply becoming harder to catch. They had disappeared. Initially, pollution seemed an unlikely cause. The lakes lie in a park protected by the New York State Constitution from most disturbances by human activities. Most of the lakes are virtually inaccessible, except to fishermen—and the winds that blow in from industrial pockets across the Midwest.

Before long, pioneering scientists such as Cornell University's Eugene Likens and Carl Schofield and Syracuse University's Charles Driscoll established a link between increased deposition of acidic compounds in rainfall and the absence or deformity of fish in lakes with clear water and low pH.

This was precisely the phenomenon first documented by Robert Angus Smith in Manchester, England, in 1852. More recently, acid rain had been of concern in Scandinavia. Acids lofted into the atmosphere from tall smokestacks in the industrial basin of the Ruhr River, falling on watersheds that were, in many places, little more than bare rock. Closer to the source, acid rain was blamed for Waldsterben, the death of Germany's prized Black Forest.

We have learned a great deal since then. In June 1980, Congress passed the Energy Security Act, Public Law 96–264. Title VII consisted of a bill I introduced in 1979, the Acid Precipitation Act of 1980. It established the National Acid Precipitation Assessment Program [NAPAP]—an interagency research program to foster the development of science-based Federal policy regarding acid rain. This program resulted in the establishment of long-term acid deposition monitoring programs, a network of permanent forest plots and lake sampling regimes, over 1,500 peer reviewed publications, and perhaps more important the issuance of 71 doctoral degrees in acid deposition research during the 1980's compared to only 2 in the decade before.

By the end of this massive study, scientists worldwide gathered in South Carolina to discuss what they had learned. They learned that at least 800 lakes and 2,200 streams in the eastern United States had been made acidic by acid rain; they predicted that an additional 10 percent would become acidic over the next decade without additional legislation. And they confirmed—as had been expected—that sulfur dioxide emissions were found to be a significant factor in acidifying ecosystems. Sulfur dioxide had contributed to forest decline in high elevation areas, corrosion of stone and metal structures, and reduced visibility.

In 1990, Congress enacted acid rain controls to reduce sulfur dioxide emissions by 10 million tons below 1985 levels, utilizing a unique, market-based approach to ensure the most cost-effective pollution reduction possible. At the time, the measure was expected to have some noticeable—but not overwhelming—beneficial effects.

We were right. Visibility has increased. Acidification of lake waters and deterioration of materials has been reduced. The incidence of respiratory disease has decreased. The market-based emissions trading approach has proved a tremendous success, fostering reductions nearly 40 percent beyond that which the act required, at costs amounting to a mere fraction of industry and government predictions. Equally important, our knowledge increased.

In recent years, scientists have identified another important precursor of acid rain: nitrogen oxides. Studies on the combined effect of sulfur dioxide and nitrogen oxide strongly suggest that the Clean Air Act will not be adequate to prevent long-term deterioration of national treasures such as the Adirondack Mountains and the Chesapeake Bay. According to a 1995 Environmental Protection Agency [EPA] study, even with the reductions required by the Clean Air Act, up to 45 percent of the lakes in the Adirondacks will become too acidic to support most aquatic life by the year 2040. Lakes too acidic to support life. Now there is a powerful image.

The bill I introduce today requires an additional 50-percent reduction of sulfur dioxide and a 75-percent reduction in the level of nitrogen oxides emitted from electric utilities. This legislation blends the best judgment of top scientists with the successful, market-based approach of the existing program.

The legislation calls for a nitrogen oxide cap and trade program similar to the sulfur dioxide program presently administered by EPA's Acid Rain Division. Under the program, EPA officials would divide a fixed—capped—number of nitrogen oxide emission allowances among the 48 contiguous States each year, basing each State's share of allowances on the State's share of the power generated within the 48 States.

Each State, in turn, would divide the allowances among the utilities within the State, in whatever manner the State sees fit. Each allowance represents a limited right to emit 1 ton of $NO_X$ pollution. Each utility must conduct an accounting procedure to ensure that they hold enough allowances to cover their emissions tonnage. A utility with more allowances than emissions may sell their additional allowances or save them for use in a future year. Likewise, a utility with fewer allowances than emissions would purchase excess allowances from another source.

If for any reason a State does not wish to administer the allocation of allowances to its utilities, the EPA Administrator will distribute the allowances automatically, giving each utility a share of the State's allowances equal to that utility's share of the State's power generation.

In addition to contributing to acid deposition, $NO_X$ pollution contributes to ozone pollution, a respiratory and pulmonary irritant which can cause significant adverse health effects. Because heat and sunlight are necessary components in the creation of ozone pollution, ozone is most prevalent in warm summer months. Therefore, in an effort to reduce ozone pollution, the legislation would take additional measures to reduce summertime $NO_X$ emissions. During the months of May, June, July, August, and September, an electric utility would be forced to surrender two allowances per ton of $NO_X$ emitted.

The $NO_X$ trading program would commence operation on January 1, 2000, beginning with an annual cap of 5.4 million allowances and cutting back to 3.0 million allowances beginning in 2003. EPA modeling suggests that, due to

the two-for-one ozone season emissions provision, the actual emissions will likely drop to approximately 2.3 million tons per year after 2003—a reduction of approximately 70 percent from 1995 levels.

Mr. President, there were days when dark plumes of smoke coming out of factory smokestacks were signs of prosperity. There was nothing Jim Farley liked to do better than put up a new Post Office and hire an artist to paint on its walls prosperity returning. Black columns of smoke reaching up to the sky—strong colors for what we hoped would be a strong economy.

Lord Kelvin used to point out that one can't solve a problem that one cannot measure. We have spent decades measuring, and now it is time to update our policy response in order to solve the problem. It is time to adjust to the consequences of what we have learned. Mr. President, I urge my colleagues to support the Acid Deposition Control Act of 1997.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1097

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Acid Deposition Control Act''.

**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress finds that—

(1) reductions of atmospheric nitrogen oxide and sulfur dioxide from utility plants, in addition to the reductions required under the Clean Air Act (42 U.S.C. 7401 et seq.), are needed to reduce acid deposition and its serious adverse effects on public health, natural resources, building structures, sensitive ecosystems, and visibility;

(2) nitrogen oxide and sulfur dioxide contribute to the development of fine particulates, suspected of causing human mortality and morbidity to a significant extent;

(3) regional nitrogen oxide reductions of 50 percent in the Eastern United States, in addition to the reductions required under the Clean Air Act, may be necessary to protect sensitive watersheds from the effects of nitrogen deposition;

(4) without reductions in nitrogen oxide and sulfur dioxide, the number of acidic lakes in the Adirondacks in the State of New York is expected to increase by up to 40 percent by 2040; and

(5) nitrogen oxide is highly mobile and can lead to ozone formation hundreds of miles from the emitting source.

(b) PURPOSES.—The purposes of this Act are—

(1) to recognize the current scientific understanding that emissions of nitrogen oxide and sulfur dioxide, and the acid deposition resulting from emissions of nitrogen oxide and sulfur dioxide, present a substantial human health and environmental risk;

(2) to require reductions in nitrogen oxide and sulfur dioxide emissions;

(3) to support the efforts of the Ozone Transport Assessment Group to reduce ozone pollution;

(4) to reduce utility emissions of nitrogen oxide by 70 percent from 1990 levels; and

(5) to reduce utility emissions of sulfur dioxide by 50 percent after the implementation of phase II sulfur dioxide requirements under section 405 of the Clean Air Act (42 U.S.C. 7651d).

**SEC. 3. DEFINITIONS.**

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) AFFECTED FACILITY.—The term ''affected facility'' means a facility with 1 or more combustion units that serve at least 1 electricity generator with a capacity equal to or greater than 25 megawatts.

(3) $NO_x$ ALLOWANCE.—The term ''$NO_x$ allowance'' means a limited authorization to emit, in accordance with this Act—

(A) 1 ton of nitrogen oxide during each of the months of October, November, December, January, February, March, and April of any year; and

(B) ½ ton of nitrogen oxide during each of the months of May, June, July, August, and September of any year.

(4) MMBTU.—The term ''mmBtu'' means 1 million British thermal units.

(5) PROGRAM.—The term ''Program'' means the Nitrogen Oxide Allowance Program established under section 4.

(6) STATE.—The term ''State'' means the 48 contiguous States and the District of Columbia.

**SEC. 4. NITROGEN OXIDE ALLOWANCE PROGRAM.**

(a) IN GENERAL.—

(1) ESTABLISHMENT.—Not later than 18 months after the date of enactment of this Act, the Administrator shall establish a program to be known as the ''Nitrogen Oxide Allowance Program''.

(2) SCOPE.—The Program shall be conducted in the 48 contiguous States and the District of Columbia.

(3) $NO_x$ ALLOWANCES.—The Administrator shall allocate under paragraph (4)—

(A) for each of calendar years 2000 through 2002, 5,400,000 $NO_x$ allowances; and

(B) for calendar year 2003 and each calendar year thereafter, 3,000,000 $NO_x$ allowances.

(4) ALLOCATION.—

(A) DEFINITION OF TOTAL ELECTRIC POWER.—For purposes of this paragraph, the term ''total electric power'' means all electric power generated by utility and nonutility generators for distribution, including electricity generated from solar wind, hydro power, nuclear power, and the combustion of fossil fuel.

(B) ALLOCATION OF ALLOWANCES.—The Administrator shall allocate annual $NO_x$ allowances to each of the States in proportion to the State's share of the total electric power generated in the 48 contiguous States and the District of Columbia.

(C) PUBLICATION.—The Administrator shall publish in the Federal Register a list of each State's $NO_x$ allowance allocation—

(i) by December 1, 1998, for calendar years 2000 and 2002;

(ii) by December 1, 2000, for calendar years 2003 through 2010; and

(iii) by December 1 of each calendar year after 2000, for the calendar year 5 years previous.

(5) INTRASTATE DISTRIBUTION.—

(A) IN GENERAL.—A State may submit a report to the Administrator detailing the distribution of $NO_x$ allowances of the State to affected facilities in the State—

(i) not later than September 30, 1999, for calendar years 2000 through 2002;

(ii) not later than September 30, 2001, for calendar years 2003 through 2010; and

(iii) not later than September 30 of each calendar year after 2011, for the calendar year 5 years previous.

(B) ACTION BY THE ADMINISTRATOR.—If a State submits a report under subparagraph (A) not later than September 30 of the calendar year specified in subparagraph (A), the Administrator shall distribute the $NO_x$ allowances to affected facilities in the State as detailed in the report.

(C) LATE SUBMISSION OF REPORT.—A report submitted by a State after September 30 of the specified year shall have no force or effect.

(D) DISTRIBUTION IN ABSENCE OF A REPORT.—

(i) IN GENERAL.—Subject to subsection (e), if a State does not submit a report under subparagraph (A) not later than September 30 of the calendar year specified in subparagraph (A), the Administrator shall, not later than November 30 of that calendar year, distribute the $NO_x$ allowances for the calendar years specified in subparagraph (A) to each affected facility in the State in proportion to the affected facility's share of the total net electric power generated in the State.

(ii) DETERMINATION OF FACILITY'S SHARE.—In determining an affected facility's share of total net electric power generated in a State, the Administrator shall consider the net electric power generated by the facility and the State to be—

(I) for calendar years 2000 through 2002, the average annual amount of net electric power generated, by the facility and the State, respectively, in calendar years 1995 through 1997;

(II) for calendar years 2003 through 2010, the average annual amount of net electric power generated, by the facility and the State, respectively, in calendar years 1997 through 1999; and

(III) for calendar year 2011 and each calendar year thereafter, the amount of net electric power generated, by the facility and the State, respectively, in the calendar year 5 years previous to the year for which the determination is made.

(E) JUDICIAL REVIEW.—A distribution of $NO_x$ allowances by the Administrator under subparagraph (D) shall not be subject to judicial review.

(b) $NO_x$ ALLOWANCE TRANSFER SYSTEM.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Administrator shall promulgate $NO_x$ allowance system regulations under which a $NO_x$ allowance allocated under this Act may be transferred among affected facilities and any other person.

(2) ESTABLISHMENT.—The regulations shall establish the $NO_x$ allowance system under this section, including requirements for the allocation, transfer, and use of $NO_x$ allowances under this Act.

(3) USE OF $NO_x$ ALLOWANCES.—The regulations shall—

(A) prohibit the use (but not the transfer in accordance with paragraph (5)) of any $NO_x$ allowance before the calendar year for which the $NO_x$ allowance is allocated; and

(B) provide that the unused $NO_x$ allowances shall be carried forward and added to $NO_x$ allowances allocated for subsequent years.

(4) CERTIFICATION OF TRANSFER.—A transfer of a $NO_x$ allowance shall not be effective until a written certification of the transfer, signed by a responsible official of the person making the transfer, is received and recorded by the Administrator.

(c) $NO_x$ ALLOWANCE TRACKING SYSTEM.—Not later than 18 months after the date of enactment of this Act, the Administrator shall promulgate regulations for issuing, recording, and tracking the use and transfer of $NO_x$ allowances that shall specify all necessary procedures and requirements for an orderly and competitive functioning of the $NO_x$ allowance system.

(d) PERMIT REQUIREMENTS.—A $NO_x$ allowance allocation or transfer shall, on recordation by the Administrator, be considered to

be a part of each affected facility's operating permit requirements, without the requirement for any further permit review and revision.

(e) NEW SOURCE RESERVE.—

(1) IN GENERAL.—For a State for which the Administrator distributes $NO_x$ allowances under subsection (a)(5)(D), the Administrator shall place 10 percent of the total annual $NO_x$ allowances of the State in a new source reserve to be distributed by the Administrator—

(A) for calendar years 2000 through 2003, to sources that commence operation after 1995;

(B) for calendar years 2004 through 2009, to sources that commence operation after 1997; and

(C) for calendar year 2010 and each calendar year thereafter, to sources that commence operation after the calendar year that is 5 years previous to the year for which the distribution is made.

(2) SHARE.—For a State for which the Administrator distributes $NO_x$ allowances under subsection (a)(5)(D), the Administrator shall distribute to each new source a number of $NO_x$ allowances sufficient to allow emissions by the source at a rate equal to the lesser of the new source performance standard or the permitted level for the full nameplate capacity of the source, adjusted pro rata for the number of months of the year during which the source operates.

(3) UNUSED $NO_x$ ALLOWANCES.—

(A) IN GENERAL.—During the period of calendar years 2000 through 2005, the Administrator shall conduct auctions at which a $NO_x$ allowance remaining in the new source reserve that has not been distributed under paragraph (2) shall be offered for sale.

(B) OPEN AUCTIONS.—An auction under subparagraph (A) shall be open to any person.

(C) CONDUCT OF AUCTION.—

(i) METHOD OF BIDDING.—A person wishing to bid for a $NO_x$ allowance at an auction under subparagraph (A) shall submit (by a date set by the Administrator) to the Administrator (on a sealed bid schedule provided by the Administrator) an offer to purchase a specified number of $NO_x$ allowances at a specified price.

(ii) SALE BASED ON BID PRICE.—A $NO_x$ allowance auctioned under subparagraph (A) shall be sold on the basis of bid price, starting with the highest priced bid and continuing until all $NO_x$ allowances for sale at the auction have been sold.

(iii) NO MINIMUM PRICE.—A minimum price shall not be set for the purchase of a $NO_x$ allowance auctioned under subparagraph (A).

(iv) REGULATIONS.—The Administrator, in consultation with the Secretary of the Treasury, shall promulgate regulations to carry out this paragraph.

(D) USE OF $NO_x$ ALLOWANCES.—A $NO_x$ allowance purchased at an auction under subparagraph (A) may be used for any purpose and at any time after the auction that is permitted for use of a $NO_x$ allowance under this Act.

(E) PROCEEDS OF AUCTION.—The proceeds from an auction under this paragraph shall be distributed to the owner of an affected source in proportion to the number of allowances that the owner would have received but for this subsection.

(f) NATURE OF $NO_x$ ALLOWANCES.—

(1) NOT A PROPERTY RIGHT.—A $NO_x$ allowance shall not be considered to be a property right.

(2) LIMITATION OF $NO_x$ allowances.—Notwithstanding any other provision of law, the Administrator may terminate or limit a $NO_x$ allowance.

(g) PROHIBITIONS.—

(1) IN GENERAL.—After January 1, 2000, it shall be unlawful—

(i) for the owner or operator of an affected facility to operate the affected facility in such a manner that the affected facility emits nitrogen oxides in excess of the amount permitted by the quantity of $NO_x$ allowances held by the designated representative of the affected facility; or

(ii) for any person to hold, use, or transfer a $NO_x$ allowance allocated under this Act, except as provided under this Act.

(2) OTHER EMISSION LIMITATIONS.—Section 407 of the Clean Air Act (42 U.S.C. 7651f) is repealed.

(3) TIME OF USE.—A $NO_x$ allowance may not be used before the calendar year for which the $NO_x$ allowance is allocated.

(4) PERMITTING, MONITORING, AND ENFORCEMENT.—Nothing in this section affects—

(A) the permitting, monitoring, and enforcement obligations of the Administrator under the Clean Air Act (42 U.S.C. 7401 et seq.); or

(B) the requirements and liabilities of an affected facility under the Clean Air Act (42 U.S.C. 7401 et seq.).

(h) SAVINGS PROVISIONS.—Nothing in this section—

(1) affects the application of, or compliance with, the Clean Air Act (42 U.S.C. 7401 et seq.) for an affected facility, including the provisions related to applicable national ambient air quality standards and State implementation plans;

(2) requires a change in, affects, or limits any State law regulating electric utility rates or charges, including prudency review under State law;

(3) affects the application of the Federal Power Act (16 U.S.C. 791a et seq.) or the authority of the Federal Energy Regulatory Commission under that Act; or

(4) interferes with or impairs any program for competitive bidding for power supply in a State in which the Program is established.

**SEC. 5. INDUSTRIAL SOURCE MONITORING.**

Section 412(a) of the Clean Air Act (42 U.S.C. 7651k(a)) is amended in the first sentence by inserting ", or of any industrial facility with a capacity of 100 or more mmBtu's per hour," after "The owner and operator of any source subject to this title".

**SEC. 6. EXCESS EMISSIONS PENALTY.**

(a) IN GENERAL.—

(1) LIABILITY.—The owner or operator of an affected facility that emits nitrogen oxides in any calendar year in excess of the $NO_x$ allowances the owner or operator holds for use for the facility for that year shall be liable for the payment of an excess emissions penalty.

(2) CALCULATION.—The excess emissions penalty shall be calculated by multiplying $6,000 by the quantity that is equal to—

(A) the quantity of $NO_x$ allowances that would authorize the nitrogen oxides emitted by the facility for the calendar year; minus

(B) the quantity of $NO_x$ allowances that the owner or operator holds for use for the facility for that year.

(3) OVERLAPPING PENALTIES.—A penalty under this section shall not diminish the liability of the owner or operator of an affected facility for any fine, penalty, or assessment against the owner or operator for the same violation under any other provision of law.

(b) EXCESS EMISSIONS OFFSET.—

(1) IN GENERAL.—The owner or operator of an affected facility that emits nitrogen oxide during a calendar year in excess of the $NO_x$ allowances held for the facility for the calendar year shall offset in the following calendar year a quantity of $NO_x$ allowances equal to the number of $NO_x$ allowances that would authorize the excess nitrogen oxides emitted.

(2) PROPOSED PLAN.—Not later than 60 days after the end of the year in which excess emissions occur, the owner or operator of an affected facility shall submit to the Administrator and the State in which the affected facility is located a proposed plan to achieve the offset required under paragraph (1).

(3) CONDITION OF PERMIT.—On approval of the proposed plan by the Administrator, as submitted, modified, or conditioned by the Administrator, the plan shall be considered a condition of the operating permit for the affected facility without further review or revision of the permit.

(c) PENALTY ADJUSTMENT.—The Administrator shall annually adjust the penalty specified in subsection (a) to reflect changes in the Consumer Price Index for all urban consumers published by the Bureau of Labor Statistics.

**SEC. 7. SULFUR DIOXIDE ALLOWANCE PROGRAM REVISIONS.**

Section 402(3) of the Clean Air Act (as added by section 401 of Public Law 101–549 (104 Stat. 2584)) (42 U.S.C. 7651a(3)) is amended by inserting before the period at the end the following: "for allowances allocated for calendar years 1995 through 2002, and ½ ton of sulfur dioxide for allowances allocated for calendar year 2003 and each calendar year thereafter.".

**SEC. 8. REGIONAL ECOSYSTEMS.**

(a) REPORT.—

(1) IN GENERAL.—Not later than December 31, 2002, the Administrator shall submit to Congress a report identifying objectives for scientifically credible environmental indicators, as determined by the Administrator, that are sufficient to protect sensitive ecosystems of the Adirondack Mountains, Mid-Appalachian Mountains, and Southern Blue Ridge Mountains and water bodies of the Great Lakes, Lake Champlain, Long Island Sound, and the Chesapeake Bay.

(2) ACID NEUTRALIZING CAPACITY.—The report under paragraph (1) shall—

(A) include acid neutralizing capacity as an indicator; and

(B) identify as an objective under paragraph (1) the objective to increase the proportion of water bodies in sensitive receptor areas with an acid neutralizing capacity greater than zero from the proportion identified in surveys begun in 1984.

(3) UPDATED REPORT.—Not later than December 31, 2006, the Administrator shall submit to Congress a report updating the report under paragraph (1) and assessing the status and trends of various environmental indicators for the regional ecosystems referred to in paragraph (1).

(4) REPORTS UNDER THE NATIONAL ACID PRECIPITATION ASSESSMENT PROGRAM.—The reports under this subsection shall satisfy the report requirements set forth in section 103(j)(3)(E) of the Clean Air Act (42 U.S.C. 7403(j)(3)(E)) for the years 2002 and 2006.

(b) REGULATIONS.—

(1) DETERMINATION.—Not later than December 31, 2006, the Administrator shall determine whether emissions reductions under section 4 are sufficient to ensure achievement of the objectives identified in subsection (a)(1).

(2) PROMULGATION.—If the Administrator determines under paragraph (1) that emissions reductions under section 4 are not sufficient to ensure achievement of the objectives identified in subsection (a)(1), the Administrator shall promulgate, not later than 2 years after making the finding, such regulations, including modification of nitrogen oxide and sulfur dioxide allowance allocations or any such measure, as the Administrator determines are necessary to protect the sensitive ecosystems described in subsection (a)(1).

**SEC. 9. GENERAL COMPLIANCE WITH OTHER PROVISIONS.**

Except as expressly provided in this Act, compliance with this Act shall not exempt or

exclude the owner or operator of an affected facility from compliance with any other law.

**SEC. 10. MERCURY EMISSION STUDY AND CONTROL.**

(a) STUDY AND REPORT.—The Administrator shall—

(1) study the practicality of monitoring mercury emissions from all combustion units that have a capacity equal to or greater than 250 mmBtu's per hour; and

(2) not later than 2 years after the date of enactment of this Act, submit to Congress a report on the results of the study.

(b) REGULATIONS CONCERNING MONITORING.—Not later than 1 year after the date of submission of the report under subsection (a), the Administrator shall promulgate regulations requiring the reporting of mercury emissions from units that have a capacity equal to or greater than 250 mmBtu's per hour.

(c) EMISSION CONTROLS.—

(1) IN GENERAL.—Not later than 1 year after the commencement of monitoring activities under subsection (b), the Administrator shall promulgate regulations controlling electric utility and industrial source emissions of mercury.

(2) FACTORS.—The regulations shall take into account technological feasibility, cost, and the projected levels of mercury emissions that will result from implementation of this Act.

**SEC. 11. DEPOSITION RESEARCH BY THE ENVIRONMENTAL PROTECTION AGENCY.**

(a) IN GENERAL.—The Administrator shall establish a competitive grant program to fund research related to the effects of nitrogen deposition on sensitive watersheds and coastal estuaries in the Eastern United States.

(b) CHEMISTRY OF LAKES AND STREAMS.—Not later than September 30, 1999, and September 30, 2006, the Administrator shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Resources of the House of Representatives a report on the health and chemistry of lakes and streams of the Adirondacks that were subjects of the report transmitted under section 404 of Public Law 101–549 (commonly known as the ''Clean Air Act Amendments of 1990'') (104 Stat. 2632).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) to carry out subsection (a), $1,000,000 for each of fiscal years 1998 through 2003; and

(2) to carry out subsection (b), $1,000,000 for each of fiscal years 1998, 1999, 2005, and 2006.

Mr. D'AMATO. Mr. President, I rise today to join my friend and distinguished colleague, Senator MOYNIHAN, in introducing legislation that we believe will curb the devastating effects of acid rain in New York State and throughout the entire Nation. Our bill seeks to place controls on the emission of the pollutants that cause acid rain and acid deposition—Sulfur Dioxide ($SO_2$) and Nitrogen Oxide ($NO_x$)—beyond those levels enacted in the 1990 Clean Air Act. In this way, we will ensure that those entities that are primarily responsible for the pollution that affects down-wind States such as New York are held to the same strict accountability.

New Yorkers know all too well that pollution transported from up-wind sources has had a devastating impact on the Adirondacks as well as other regions within the State. The prevalence of acid deposition has reached the point where the Environmental Protection Agency [EPA] estimates that without further controls of nitrogen oxides, the number of acidic lakes in the Adirondacks could increase to 43 percent by the year 2040. Such an increase will see approximately 1,300 lakes out of the 3,000 in the Adirondacks become chronically acidic. Clearly, we must take action to prevent this from becoming a reality.

Under the 1990 Clean Air Act, a cap on $SO_2$ emissions was enacted. It was designed to reduce the overall level of this pollutant by 50 percent by the year 2000. To provide an incentive to decrease emissions even more, a system of trading allowances for $SO_2$ was established. An ''allowance'' allows a utility to emit 1 ton of $SO_2$ pollution. These trading allowances enable utilities that have reached their allowable emission caps for $SO_2$ to buy another utility's excess capability. This ability to ''trade'' tons of $SO_2$ has been popular with utilities and has actually brought significant reductions in the amount of $SO_2$ emitted in a cost-effective manner. The legislation that we are introducing today builds on that success by instituting a $NO_x$ cap and trade program that we believe will have a positive impact on the environment.

Under the bill, the Environmental Protection Agency [EPA] would be required to allocate a capped number of $NO_x$ emission allowances nationwide—excluding Alaska and Hawaii. The EPA would base each State's allotment on the percentage share of power each State generates within the 48 contiguous States. So, if a particular State generates 5 percent of the power in the Continental United States, then that State would be entitled to 5 percent of the total emissions pool.

Once a State had received its emission allowances, the State would be able to divide those allowances within the State in any manner it chooses. Utilities would be required to ensure that they have enough tons at their disposal to cover their total emission tonnage. If a State had additional tons, they would be able to sell allowances or ''bank'' them for use at a future time. A utility without enough allowances would have to buy them on the open market, an option currently in practice with $SO_2$. Utilities that do not abide by these restrictions on capping and trading $NO_x$ allowances would be fined $6,000 per ton emitted over the established limit for that plant. States that are unwilling or unable to determine the allocation of allowances to utilities within their State would have that capability default to the EPA.

The $NO_x$ trading program would go into effect in the year 2000 with an annual cap of 5.4 million allowances nationwide decreasing to 3 million allowances in 2003. Currently, utilities emit approximately 6.5 million tons of nitrogen oxides ($NO_x$).

The bill would also create further protections against harmful pollution during the summer months when ozone levels are at their highest. When $NO_x$ combines with heat, sunlight and volatile organic compounds [VOC's], the end product is ozone. Thus, ideal conditions for high levels of ground-level ozone occur mainly in the summer months. To combat this, the legislation calls for utilities to give up two allowances for each ton of $NO_x$ emitted during the months of May, June, July, August and September instead of the one allowance per ton that would apply for the remaining 7 months of the year. This would effectively drop the total emission of $NO_x$ to 2.3 million tons after the year 2003 and would create approximately a 70 percent reduction in $NO_x$ emissions from the 1990 level.

In addition, the bill calls for further reductions in $SO_2$ in the year 2003, when utilities will be required to use two allowances per ton of $SO_2$ emitted instead of one. This would cut these emissions in half. The bill also requires the EPA to conduct a study on the effects that mercury, a toxic metal, may have on the environment and how to measure this mercury with an eye towards possible monitoring and control of mercury emissions in the future.

Finally, the bill contains a provision for specific research on the effect of acid deposition on the sensitive ecosystems of the Adirondacks, the Southern Blue Ridge Mountains, the Mid-Appalachian Mountains and water bodies of the Great Lakes, Lake Champlain, Long Island Sound and the Chesapeake Bay. If proven by research that a particular region is still threatened, then the Administrator may take further steps to promote environmental recovery of that region.

We in New York continue to see the effects that acid rain and acid deposition have on our environment. Lakes, streams and trees in the Adirondacks are still dying due to the continued emission and transport of these pollutants. Other states and other regions throughout our nation have similar problems. If we are to pass along a healthy environment to our children and grandchildren, we must be willing to enact the controls that will preserve that legacy. The legislation that Senator MOYNIHAN and I have proposed is strong medicine, but it will enable us to sustain our heritage for generations to come.

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By Mr. DURBIN:

S. 1098. A bill to provide for the debarment or suspension from Federal procurement and nonprocurement activities of persons that violate certain labor and safety laws; to the Committee on Governmental Affairs.

THE FEDERAL PROCUREMENT AND ASSISTANCE INTEGRITY ACT

Mr. DURBIN. Mr. President, I am pleased today to introduce legislation to improve the efficiency and protect the integrity of Federal procurement and assistance programs, by ensuring that the Federal Government does business with responsible contractors and participants.

The United States General Accounting Office [GAO] has found that billions

of dollars in Federal procurement contracts and assistance are going to individuals and corporations which are violating our nation's labor and employment laws. In 1995, the GAO reported that more than $23 billion in Federal contracts were awarded in fiscal year 1993 to contractors who violated labor laws. That is 13 percent of the $182 billion in Federal contracts awarded that year. Part of the reason for this, the GAO found, is that the National Labor Relations Board, which enforces our nation's labor laws, does not know whether violators of the law are receiving Federal contracts. And the General Services Administration, which oversees Federal procurement, does not know the labor relations records of Federal contractors.

Last year, the GAO reported that $38 billion in Federal contracts in fiscal year 1994 were awarded to contractors who had violated workplace health and safety laws. That is 22 percent of the $176 billion in Federal contracts of $25,000 or more which were awarded that year. The GAO found that 35 people died and 55 more people were hospitalized in fiscal year 1994 as a result of injuries at the workplaces of federal contractors who violated health and safety laws. These contractors were assessed a total of $10.9 million in penalties in fiscal year 1994—while being awarded $38 billion in Federal contracts.

The GAO concluded that, although federal agencies have the authority to deny contracts and federal assistance to companies that violate Federal laws, this authority is rarely used in the case of safety and health violations. The GAO found that federal agencies do not normally collect or receive information about which contractors are violating health and safety laws—even when contractors have been assessed large penalties for egregious or repeat violations.

The Federal Government should not ignore the health and safety records of companies that apply for federal contracts and assistance. A report published this week in the Archives of Internal Medicine concludes that job-related injuries and illnesses in the United States are more common than previously thought, costing the nation more than AIDS, Alzheimer's, cancer or heart disease. The report, which analyzed national estimates of job-related illnesses and injuries in 1992, states that more than 13 million Americans were injured from job-related causes in just one year—more than four times the number of people who live in the City of Chicago. The report concluded that the cost to our country from workplace injuries and illnesses was $171 billion in 1992.

The Federal Government has a responsibility to taxpayers, working Americans and law-abiding businesses, to ensure that federal tax dollars do not go to individuals and corporations that violate safety and health, labor and veterans' employment preference laws. About 26 million Americans are employed by federal contractors and subcontractors. They deserve to know that their Government is not rewarding employers who violate the laws that protect American workers and veterans.

The legislation I am introducing today will improve the enforcement of our nation's health and safety, labor and veterans' employment laws, and provide an incentive to contractors to comply with the law. This legislation will allow the Secretary of Labor to debar or suspend a person from receiving Federal contracts or assistance for violating the National Labor Relations Act, the Fair Labor Standards Act, the Occupational Safety and Health Act or the disabled and Vietnam-era veterans hiring preference law. It will require the Secretary of Labor and the National Labor Relations Board to develop procedures to determine whether a violation of law is serious enough to warrant debarment or suspension. And, as recommended by the GAO, this legislation will require ongoing exchanges of information among Federal agencies to improve their ability to enforce our nation's laws. This legislation is identical to a bill introduced in the House of Representatives by Congressman Lane Evans of Illinois, and it is similar to legislation introduced in previous years by former Senator Paul Simon.

Mr. President, it is important to note that the vast majority of Federal contractors obey the law. This legislation is only directed at those who are violating the law. It will deny Federal contracts and assistance to individuals and companies that violate the law and ensure that Federal contracts are awarded to companies that respect the law.

I urge my colleagues to join me in supporting this legislation, and I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1098

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Federal Procurement and Assistance Integrity Act''.

**SEC. 2. PURPOSE.**

The purpose of this Act is to improve the efficiency and effectiveness and protect the integrity of the Federal procurement and assistance systems by ensuring that the Federal Government does business with responsible contractors and participants.

**SEC. 3. DEBARMENT AND SUSPENSION FOR VIOLATORS OF CERTAIN LABOR AND SAFETY LAWS.**

(a) DEBARMENT AND SUSPENSION.—The Secretary of Labor may debar or suspend a person from procurement activities or nonprocurement activities upon a finding, in accordance with procedures developed under this section, that the person violated any of the following laws:

(1) The National Labor Relations Act (29 U.S.C. 151 et seq.).

(2) The Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

(3) The Occupational Safety and Health Act (29 U.S.C. 651 et seq.).

(4) Section 4212(a) of title 38, United States Code.

(b) PROCEDURES.—The Secretary of Labor and the National Labor Relations Board shall jointly develop procedures to determine whether a violation of a law listed in subsection (a) is serious enough to warrant debarment or suspension under that subsection. The procedures shall provide for an assessment of the nature and extent of compliance with such laws, including whether there are or were single or multiple violations of those laws or other labor or safety laws and whether the violations occur or have occurred at one facility, several facilities, or throughout the company concerned. In developing the procedures, the Secretary and the Board shall consult with departments and agencies of the Federal Government and provide, to the extent feasible, for ongoing exchanges of information between the departments and agencies and the Department of Labor and the Board in order to accurately carry out such assessments.

(c) DEFINITIONS.—In this section:

(1) DEBAR.—The term ''debar'' means to exclude, pursuant to established administrative procedures, from Federal Government contracting and subcontracting, or from participation in nonprocurement activities, for a specified period of time commensurate with the seriousness of the failure or offense or the inadequacy of performance.

(2) NONPROCUREMENT ACTIVITIES.—The term ''nonprocurement activities'' means all programs and activities involving Federal financial and nonfinancial assistance and benefits, as covered by Executive Order No. 12549 and the Office of Management and Budget guidelines implementing that order.

(3) PROCUREMENT ACTIVITIES.—The term ''procurement activities'' means all acquisition programs and activities of the Federal Government, as defined in the Federal Acquisition Regulation.

(4) SUSPEND.—The term ''suspend'' means to disqualify, pursuant to established administrative procedures, from Federal Government contracting and subcontracting, or from participation in nonprocurement activities, for a temporary period of time because an entity or individual is suspected of engaging in criminal, fraudulent, or seriously improper conduct.

(d) EFFECTIVE DATE.—This Act shall take effect on October 1, 1997.

(e) REGULATIONS.—The Federal Acquisition Regulation and the regulations issued pursuant to Executive Order No. 12549 shall be revised to include provisions to carry out this Act.

(f) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Labor and the National Labor Relations Board shall jointly submit to Congress a report on the implementation of this Act.

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By Mr. DASCHLE (for himself and Mr. JOHNSON):

S. 1099. A bill to authorize the Secretary of the Army to acquire such land in the vicinity of Pierre, South Dakota, as the Secretary determines is adversely affected by the full wintertime Oahe Powerplant release; to the Committee on Environment and Public Works.

RELOCATION OF RESIDENTS IN PIERRE AND FT. PIERRE, SOUTH DAKOTA, LEGISLATION

Mr. DASCHLE. Mr. President, today I am introducing legislation to provide the Corps of Engineers with the authority to buy-out and relocate people living in the southeast Pierre and Ft.

Pierre areas that are being flooded by the federal Pick-Sloan project. This is a chronic problem that is getting worse every year as sediment builds up at the delta of the Bad and Missouri Rivers.

In the Pierre and Ft. Pierre area, high water levels, exacerbated by sediment buildup and ice, regularly leads to the flooding of homes in the wintertime. The situation has become intolerable, and it is not fair for the residents of this area to continue to suffer as the result of the operation of this federal project. Moreover, the flooding problem hinders the ability of the Western Area Power Administration to generate hydroelectric power from the Oahe dam, resulting in the loss of millions of dollars in revenues to the federal government each year.

To address this problem, I added a provision to the 1996 Water Resources Development Act to require the Corps of Engineers to develop a plan to remove the sediment blocking the channel and to reduce the erosion that is leading to this persistent buildup of sediment at the delta. Hopefully, this effort will lead to the development of a means of moving some of the sediment and of a plan to better prevent erosion in the Bad River watershed. One local resident, Mike Harrison, has developed a plan to help clear the channel of sediment which holds promise and which the Corps will evaluate with funds appropriated for fiscal year 1998.

Even if that effort is successful, however, and we are able to relieve some of the pressure on the channel, sediment from the Bad River will continue to build up at that location. In short, while we may be able to increase the capacity of the channel to transport water and thus allow for greater hydroelectric power generation in the wintertime, it is difficult to envision a time when we will be able to permanently alleviate the risk of flooding to the homeowners in the area.

Therefore, I am introducing this legislation to authorize the Corps to relocate the affected homeowners and ensure that they never again have to face the prospects of enduring flooded homes during our cold South Dakota winters. It is my strong hope Congress will recognize the severity of this problem and move swiftly to enact and implement this legislation. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1099

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. ACQUISITION OF LAND NEAR PIERRE, SOUTH DAKOTA.**

To provide full operational capability to carry out the authorized purposes of the Missouri River Main Stem dams that are part of the Pick-Sloan Missouri River Basin Program authorized by section 9 of the Act entitled ''An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes'', approved December 22, 1944, the Secretary of the Army, acting through the Chief of Engineers, may acquire, from willing sellers, such land in the vicinity of Pierre, South Dakota, as the Secretary determines is adversely affected by the full wintertime Oahe Powerplant release.

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By Mr. AKAKA (for himself, Ms. COLLINS, Mr. HUTCHINSON, Ms. LANDRIEU, Mr. BUMPERS, Mr. FORD, Mr. BINGAMAN, and Mr. HOLLINGS):

S. 1100. A bill to amend the Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States of America, the legislation approving such covenant, and for other purposes; to the Committee on Energy and Natural Resources.

THE COMMONWEALTH OF THE NORTHERN MARIANA REFORM ACT

Mr. AKAKA. Mr. President, today I am introducing the Commonwealth of the Northern Mariana Islands Reform Act, a bipartisan initiative to curb immigration, wage, and apparel labeling abuses in the CNMI. Senators COLLINS, HUTCHINSON of Arkansas, LANDRIEU, BUMPERS, FORD, BINGAMAN, and HOLLINGS are cosponsors of this legislation.

The Commonwealth of the Northern Mariana Islands is located 3,900 miles west of Hawaii. Following World War II, the United States administered the islands under a U.N. Trusteeship.

In 1975, the people of the CNMI voted for political union with the United States. Today the CNMI is a U.S. territory.

A 1976 covenant enacted by Congress gave U.S. citizenship to residents of the CNMI. The covenant exempted the Commonwealth from U.S. immigration and minimum wage laws, however. This omission has led to a number of abuses in the CNMI that my bill would rectify.

IMMIGRATION ABUSE IN THE CNMI

I am sure many Senators will find it hard to believe that the Immigration and Nationality Act does not apply to all territories in the U.S. As surprising as it may be, the CNMI is exempt from U.S. immigration law.

Let me explain the origins of this unique situation. At the time that the covenant establishing the CNMI was negotiated, the Northern Marianas leadership expressed concern that immigrants from neighboring Asian countries might settle in the CNMI and thereby alter the Commonwealth's culture. The island government requested that it be given exclusive authority over immigration so that it could limit the entry of aliens and preserve local culture and customs. Congress agreed to the request, but specifically reserved the right to extend Federal immigration law to the CNMI if the situation warranted.

After 20 years, CNMI immigration policy is a proven failure. In 1980, the Commonwealth's population was 16,780. Of these, 12 percent were alien residents. Today, CNMI's population is 59,000, more than half of whom are aliens.

Rather than preventing an influx of immigrants, the CNMI has established an aggressive policy of recruiting low-wage, foreign guest workers to operate an ever-expanding garment and tourism industry. According to the CNMI representative in Washington, local immigration policy has ''no limit. It is wide open, unrestricted.''

The U.S. Immigration and Naturalization Service reports that CNMI authorities have no reliable records of aliens who have entered the CNMI, how long they remain, and when, if ever, they depart. Ninety-one percent of the private sector work force are alien guest workers. These workers have overwhelmed the CNMI, driving up unemployment in the Commonwealth to 14 percent. There is no justification for an immigration policy that admits foreign workers in such overwhelming numbers that it leads to double-digit unemployment.

The application of U.S. immigration law to the CNMI is long overdue. The CNMI has exploited its immigration exemption to the point where alien workers constitute a majority of the CNMI population. The Commonwealth's exemption from the Immigration and Nationality Act has been so abused that protecting the island culture ceases to be an issue.

Despite a 3-year effort by the U.S. Departments of Justice, Labor, and Interior, and an appropriation of $10 million by Congress, there had been little or no improvement in CNMI immigration policy. In fact, the Commonwealth's immigration policy has grown worse. Between January 1995 and May 1996, 23 new garment companies received operating licenses, prompting the CNMI Government to enact legislation to double the number of foreign workers permitted in the island's garment industry.

''MADE IN USA'' ABUSE

The U.S. apparel industry would be shocked to learn that in 1996, $555 million of textile products labeled ''Made in USA'' were cut and sewn in the CNMI by workers who enjoy none of the protections typically associated with the ''Made in USA'' label. Even more frightening is the fact that the CNMI textile industry is growing at a rate of 30 percent annually. Textile manufacturers across the United States who pay their employees the Federal minimum wage are undercut by CNMI competitors who label their garments ''Made in USA'' but employ foreign laborers to sew foreign fabric, pay them $3.05 an hour and subject them to feudal working conditions.

The evidence that garments sewn in the CNMI directly and unfairly compete with U.S. apparel manufacturers is very strong. According to the Commerce Department, 85 percent of CNMI apparel is classified as import sensitive. This classification means that the CNMI garments compete with segments of the U.S. apparel industry that are experiencing significant decline due to heavy import penetration.

Apparel manufacturers in the CNMI enjoy benefits that far exceed those enjoyed by foreign or domestic manufacturers. CNMI garment factories are not subject to the U.S. minimum wage and pay no duty on fabrics they import. Furthermore, quotas do not apply to either fabric imported into the Commonwealth, or to finished garments cut and sewn in the CNMI using foreign labor. Yet these products are labeled ''Made in the USA'' and compete unfairly with apparel employment elsewhere in the United States.

The July 1997 report on labor, immigration, and law enforcement in the CNMI confirms my analysis of the Commonwealth's garment industry. Page 13 of the report contains the following finding:

The duty and quota-free preferences afforded to products of the CNMI, coupled with local control of immigration and minimum wage, have led to a rapidly growing garment manufacturing industry. Apparel manufacturers operating in the CNMI, who mainly employ workers from the People's Republic of China, label their products ''Made in the USA,'' and use Chinese fabric not subject to United States duty or quota. By using the CNMI as an apparel manufacturing base, these manufacturers avoid duties and are not subject to United States quotas on finished products. These imports adversely affect the United States apparel industry's employment and profits.

In some cases, these garment factories are transplanted to the CNMI from the People's Republic of China. They are owned or managed by Chinese nationals, and staffed by bonded and indentured Chinese laborers. Despite promises of the American dream if they work in the CNMI, laborers must sign contracts with government officials in the People's Republic of China that waive rights guaranteed to U.S. workers, forbid participation in religious and political activities while in the U.S., prohibit workers from marrying, and subject employees to penalties in China for violations of their labor contracts.

In factories with close ties to China, compliance with labor contracts is directly monitored by representatives of the Chinese government. These working conditions hardly justify granting ''Made in the USA'' status to CNMI garments.

CNMI DENIES EMPLOYMENT OPPORTUNITIES TO U.S. WORKERS

The 1976 covenant exempts the CNMI from the Federal minimum wage. This exemption was granted with the understanding that as its economy grew and prospered, the CNMI would raise its minimum wage to the Federal level. Foreign workers typically enter the CNMI under 1-year work permits and are paid a minimum of wage of $3.05.

According to the July 1997 report by the Department of the Interior, the lower minimum wage, combined with unlimited access to foreign labor, creates an incentive for employers to hire foreign labor for all jobs, including skilled and entry level jobs at or near the minimum wage. Employment statistics clearly support the Interior Department analysis.

Ninety-one percent of the private sector work force are alien guest workers. U.S. citizens who can find work, and there are many who cannot, are typically employed by the government in jobs that pay more than the minimum wage. Due to its irresponsible immigration policy, foreign workers have overwhelmed the CNMI to the point where unemployment among U.S. citizens living in the Commonwealth is 14 percent. The CNMI preference for foreign laborers deprives U.S. citizens of private sector opportunities and leaves them with the limited options of government work, unemployment and welfare, or relocation to Guam or the mainland.

The minimum wage is sometimes a lightning-rod issue for Republicans. However, in a labor market where there is an unlimited supply of guest workers, the low CNMI minimum wage means that low-wage alien laborers are displacing U.S. workers. Any policy that favors foreign workers over the interests of employed and unemployed U.S. citizens is indefensible.

LABOR ABUSE IN THE CNMI

CNMI immigration and wage abuses have caused a number of collateral problems. Pervasive labor abuses in the Commonwealth have provoked international outrage. In 1995, the Philippine government imposed a moratorium on immigration of Filipino workers in the CNMI. The Philippine Government's extraordinary action to protect its citizens from employment in the CNMI was the first such decision by a foreign government in U.S. history. Although the Philippine Government has since lifted the moratorium, recurring abuses prompted Philippine officials to announce that the moratorium may soon be reimposed.

While the U.S. minimum wage does not apply, CNMI must adhere to all other Federal labor laws. The U.S. Department of Labor has uncovered a systematic pattern of labor abuses in the CNMI. These abuses are a direct consequence of the Commonwealth's unrestricted immigration policy. Examples include involuntary servitude and peonage, illegal withholding of wages, nonpayment of overtime wages, illegal deductions from paychecks to cover employer expenses, kickbacks of wages to employers, and employee lockdowns in work sites and living barracks.

HUMAN RIGHTS AND SEXUAL ABUSE

The Commonwealth's immigration policy results in serious problems in other areas. The Justice Department has documented numerous cases of women and girls being recruited from the Philippines, China, and other Asian countries expressly for criminal sexual activity. These abuses are a direct consequence of the Commonwealth's unrestricted immigration policy.

Typically, these women are told they will work in the CNMI as waitresses, but are forced into nude dancing and prostitution upon their arrival. The Justice Department described this situation as the ''systematic trafficking of women and minors for prostitution,'' which may also involve illegal smuggling, organized crime, immigration document fraud, and pornography. Cases of sexual servitude have also been identified.

The U.S. Justice Department also found cases of female guest workers and aliens living in the CNMI being forced into prostitution through intimidation or threats of physical harm. In some instances, women who resist are kidnapped, raped, and tortured.

To correct these abuses in the CNMI, my bill makes three changes in Federal law. First, it extends the Immigration and Nationality Act to the Commonwealth so that the CNMI will end its dependence on foreign labor.

Second, it would limit use of the ''Made in USA'' label to apparel manufactured with a minimum percentage of U.S. citizen labor. In 1999, the minimum percentage of U.S. citizen labor must be 20 percent. In 2000, the minimum percentage must be 35 percent and thereafter the minimum percentage rises to 50 percent.

Finally, my bill would make the U.S. minimum wage applicable to the CNMI so that the CNMI garment industry competes fairly with industry on the U.S. mainland.

Despite efforts to portray itself as an economic miracle, there is a dark side to the CNMI economy. Citizens and foreign laborers pay a very high price for the Commonwealth's economic success, and enjoy few benefits of that success. The time for patience has ended. The time has come to force changes that the Commonwealth has been unwilling to enact.

I ask unanimous consent that a copy of my bill be printed in the RECORD.

I also ask unanimous consent that the following additional documents be printed in the RECORD: the executive summary of the Clinton administration's July 1997 report on labor, immigration, and law enforcement in the Commonwealth of the Northern Mariana Islands, the Library of Congress translation of a Chinese shadow contract, the memo from the State Department confirming that an agency of the Chinese Government is a party to the shadow contract, and a June 20, 1997, Washington Times article and a June 6, 1997, Honolulu Star-Bulletin article on the CNMI.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1100

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Commonwealth of the Northern Mariana Islands Reform Act''.

**SEC. 2. FINDINGS.**

The Congress finds that—

(1) the Covenant to Establish a Commonwealth of the Northern Mariana Islands in

Political Union with the United States of America was approved by Congress pursuant to Public Law 94–241, 90 Stat. 263;

(2) at the time that the Covenant was being negotiated, representatives of the government of the Northern Mariana Islands expressed concern that United States immigration laws would allow unrestricted immigration into their small island community;

(3) in response to these concerns, section 503(a) of the Covenant provided that the Immigration and Naturalization Act did not immediately apply to the Commonwealth of the Northern Mariana Islands;

(4) Congress expressly reserved the right to extend the Immigration and Naturalization Act to the Commonwealth of the Northern Mariana Islands at a future date;

(5) following the enactment of the Covenant, the Commonwealth of the Northern Mariana Islands instituted a largely unrestricted immigration policy, causing the Commonwealth's population to increase from 16,780 in 1980 to a population of over 58,800 in 1995, with foreign workers outnumbering United States citizens;

(6) as a result of these immigration policies, 91 percent of the private sector work force in the Commonwealth is comprised of foreign workers;

(7) the Commonwealth of the Northern Mariana Islands has used its immigration policy to recruit a large, low-cost foreign work force of desperately poor individuals with no meaningful opportunity to demand safe living and working conditions or fair wages and benefits;

(8) notwithstanding an unemployment rate of 14 percent among United States citizens, the Commonwealth has recruited increasing numbers of foreign workers;

(9) even though the Commonwealth alleges that unfilled job openings justify recruitment of an increasing number of foreign workers, the Commonwealth's own statistics indicate an unemployment rate of 4.5 percent foreign workers;

(10) the U.S. Immigration and Naturalization Service reported that the Commonwealth of the Northern Mariana Islands has no reliable records of aliens who have entered the Commonwealth, how long they remain, and when, if ever, they depart;

(11) at the time that the Covenant was being negotiated, representatives of the government of the Northern Mariana Islands expressed concern that the minimum wage provisions of the Fair Labor Standards Act would disrupt the Commonwealth's struggling local economy;

(12) in response to these concerns, section 503(c) of the Covenant provided that the minimum wage provisions of the Fair Labor Standards Act did not immediately apply to the Commonwealth;

(13) Congress expressly reserved the right to extend the minimum wage provisions of the Fair Labor Standards Act to the Commonwealth of the Northern Mariana Islands at a future date;

(14) the economy of the Commonwealth of the Northern Mariana Islands has grown significantly and, in 1996, annual gross business revenues rose to $1,500,000,000, a 6-fold increase during the past decade;

(15) the current minimum wage in the Commonwealth of the Northern Mariana Islands is only $3.05 per hour for garment and construction industry workers and $3.05 per hour for those working in other industries;

(16) the U.S. Department of Labor has uncovered a systematic pattern of labor abuses in the Commonwealth of the Northern Mariana Islands, including—

(a) involuntary servitude and peonage,
(b) illegal withholding of wages earned,
(c) non-payment of overtime wages,
(d) illegal deductions from paychecks,
(e) kickbacks of wages paid to employees,
(f) employee lock-downs in work sites and living barracks, and
(g) unsafe and unhealthy working and living environments;

(17) despite an expectation that they will enjoy the American dream in the Commonwealth of the Northern Mariana Islands, foreign workers have been required to sign contracts with government representatives in the Peoples Republic of China which—

(a) waive rights guaranteed to U.S. workers,
(b) forbid participation in religious and political activities while in the United States,
(c) prohibit workers from dating or marrying in the United States,
(d) subject employees to civil and labor penalties if returned to China, and
(e) permit Chinese government recruiters to charge a fee of 25 percent of an employee's net pay for a period of two years;

(18) the U.S. Department of Justice has determined that the immigration and labor situation in the Commonwealth of the Northern Mariana Islands has created a major organized crime problem in the Commonwealth which involves—

(a) Immigration document fraud,
(b) Public corruption,
(c) Racketeering,
(d) Drug trafficking,
(e) Prostitution,
(f) Pornography,
(g) Extortion,
(h) Gambling,
(i) Smuggling, and
(j) Other forms of violent crime;

(19) the U.S. Department of Justice is investigating numerous cases in the Commonwealth of the Northern Mariana Islands of women being recruited from the Philippines, China, and other Asian countries expressly for criminal sexual activity, and has also described this situation as the ''systematic trafficking of women and minors for prostitution;''

(20) the Commonwealth of the Northern Mariana Islands is exempt from Federal immigration law, the Federal minimum wage law, and Federal tariffs and taxes, yet its products are sold as ''Made in USA'' although 95 percent of the workers in the garment manufacturing industry are not U.S. citizens;

(21) garments made in the Commonwealth of the Northern Mariana Islands carrying the ''Made in USA'' label compete directly with garments made on the United States mainland by workers and businesses that are subject to Federal immigration law, the Federal minimum wage law, and Federal taxes;

(22) in 1996, garment manufacturers in the Commonwealth shipped garments to the Continental United States with a wholesale value of $555 million, a 30 percent increase over the previous year;

(23) Congress appropriated $10 million to fund a 3-year initiative by the U.S. Departments of Justice, Labor, and Interior to assist the Commonwealth in its efforts to improve its labor and immigration policies;

(24) despite this appropriation there has been little or no improvement in the immigration and labor policies of the Commonwealth of the Northern Mariana Islands;

(25) the government of the Commonwealth of the Northern Mariana Islands has been ineffective in stemming the flow of immigration onto United States soil, raising the wage and living standards for workers, and aggressively prosecuting labor and human rights abuses;

(26) despite efforts by the Reagan, Bush, and Clinton administrations to persuade the government of the Commonwealth of the Northern Mariana Islands to correct problems in the Commonwealth, the situation has only deteriorated; and

(27) the continuing concern about labor abuses, the Commonwealth's immigration policy, and the employment of foreign workers in a manner that unfairly competes with other U.S. manufacturing prompted President Clinton on May 30, 1997 to notify the Governor of the Commonwealth of the Northern Mariana Islands that Federal immigration and minimum wage laws should be applied to the Commonwealth.

**SEC. 3. APPLICATION OF IMMIGRATION LAW.**

(a) Article V, Section 506 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (approved by Public Law 94–241, 90 Stat. 263) is amended by adding at the end thereof the following:

''(e)(1) For purposes of entry into the Northern Mariana Islands by any individual (but not for purposes of entry by an individual into the United States from the Northern Mariana Islands), the Immigration and Nationality Act shall apply as if the Northern Mariana Islands were a State (as defined in section 101(a)(36) of the Immigration and Nationality Act).

''(2) Notwithstanding paragraph (1), with respect to an individual seeking entry into the Northern Mariana Islands for purposes of employment in the textile, hotel, tourist, or construction industry (including employment as a contractor), the Federal statutes and regulations governing admission to Guam of individuals described in section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act shall apply. For purposes of this paragraph—

''(A) references in such statutes and regulations to United States resident workers shall be deemed to be references to United States citizens, national or resident workers; and

''(B) references in such statutes and regulations to Guam shall be deemed to be references to the Northern Mariana Islands.

''(3) When deploying personnel to enforce the provisions of this section, the Attorney General shall coordinate with, and act in conjunction with, State and local law enforcement agencies to ensure that such deployment does not degrade or compromise the law enforcement capabilities and functions currently performed by immigration officers.

''(4) The Attorney General shall prescribe and implement a transition period for the amendments made to section 506(a) of the Covenant. The transition period shall not exceed 4 years from the effective date of this subsection. Not later than 2 years after the date of enactment of the Commonwealth of the Northern Mariana Islands Reform Act, the Attorney General shall submit a report on the status of implementing this section.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 180 days after the date of enactment of this Act except that the amendment designated as ''(e)(2)'' shall take effect on the date of enactment of this Act.

**SEC. 4. LABELING REQUIREMENTS FOR TEXTILE FIBER PRODUCTS.**

(a) Public Law 94–241 is amended by adding at the end the following:

**''SEC. 6. LABELING OF TEXTILE FIBER PRODUCTS.**

''(a) No textile fiber product that is made or assembled in the Commonwealth of the Northern Mariana Islands shall have a stamp, tag, label, or other means of identification or substitute therefore on or affixed to the product stating 'Made in USA' or otherwise stating or implying that the product was made or assembled in the United States unless the product is made or assembled using direct labor that meets the required percentage of qualified manhours.

''(b) A textile fiber product that does not meet the requirements of subsection (a) shall be deemed to be misbranded for purposes of the Textile Fiber Products Identification Act (Public Law 85–897, 72 Stat. 1717).

''(c) In this section:

''(1) DIRECT LABOR.—The term 'direct labor' includes any work provided to prepare, assemble, process, package, or transport a textile fiber product, but does not include supervisory, management, security, or administrative work.

''(2) FREELY ASSOCIATED STATES.—The term 'Freely Associated States' means the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia.

''(3) QUALIFIED MANHOURS.—The term 'qualified manhours means the manhours of direct labor performed by persons who are citizens or nationals of the United States or citizen of the Freely Associated States.

''(4) REQUIRED PERCENTAGE.—The term 'required percentage' means—

''(A) 20 percent, for the period beginning January 1, 1998, through December 31, 1998;

''(B) 35 percent, for the period beginning January 1, 1999, through December 31, 1999; and

''(C) 50 percent, for the period beginning January 1, 2000, and thereafter.

''(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.''.

**SEC. 5. MINIMUM WAGE REQUIREMENTS.**

(a) Section 503 of Article V of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, approved by Public Law 94–241 is amended by deleting ''States; and (c) the minimum wage provisions of Section 6, Act of June 25, 1938, 52 Stat. 1062, as amended,'' and inserting in lieu thereof ''States.''.

(b) Public Law 94–241, 90 Stat. 263, is amended by adding at the end thereof the following:

**''SEC. 7. MINIMUM WAGES IN THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.**

''(a) The minimum wage provisions of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) shall apply to the Commonwealth of the Northern Mariana Islands, except that—

''(1) during the period beginning 30 days after the date of enactment of this Act and ending on December 31, 1997, the minimum wage rate applicable to the Commonwealth of the Northern Mariana Islands shall be $3.05 an hour for an employee; and

''(2) beginning on January 1, 1998, and each calendar year thereafter, the minimum wage rate applicable to the Commonwealth of the Northern Mariana Islands for an employee for each such calendar year shall be the minimum wage rate applicable to the Commonwealth of the Northern Mariana Islands for the preceding calendar year increased by 30 cents or the amount necessary to increase the minimum wage rate to the rate described in section 6(a)(1) of the Fair Labor Standards Act of 1938, whichever is less; and

''(3) after the calendar year in which the minimum wage rate applicable to the Commonwealth of the Northern Mariana Islands has been increased under subparagraph (A) to the minimum wage rate described in section 6(a)(1) of the Fair Labor Standards Act of 1938, the minimum wage rate applicable to the Commonwealth of the Northern Mariana Islands for an employee for any succeeding calendar year shall be the rate described in such section.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 30 days after the date of enactment of this Act.

**SEC. 6. REPORT.**

Not later than 1 year after the date of enactment of this Act, the Secretary of the Interior, in consultation with other Federal agencies, shall conduct a study of the extent of human rights violations and labor rights violations in the Commonwealth of the Northern Mariana Islands, including the use of forced or indentured labor, and any efforts being taken by the Government of the United States or the Commonwealth of the Northern Mariana Islands to address or prohibit such violations. The Secretary of the Interior shall include the results of such study in the annual report, entitled ''Federal-CNMI Initiative on Labor, Immigration, and Law Enforcement,'' transmitted to Congress.

**SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

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FEDERAL-CNMI INITIATIVE ON LABOR, IMMIGRATION, AND LAW ENFORCEMENT IN THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS, JULY 1997

EXECUTIVE SUMMARY

The United States took the Northern Mariana Islands from Japan in 1944 and administered the islands under a United Nations trusteeship agreement until 1986. At that time, the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (Covenant) came into full effect, and the residents were granted United States citizenship. In developing their Covenant agreement with the United States, the Northern Marianas negotiators expressed concern that the Federal Immigration and Nationality Act (INA) would permit excessive immigration to the islands from neighboring Asian countries that would permanently overwhelm the local culture and community. Federal negotiators and the Congress, therefore, agreed to not immediately extend Federal immigration control. Ironically, CNMI policies have resulted in aliens becoming a majority of the island's population. These policies include use of low-wage temporary alien workers for permanent jobs and the aggressive promotion of garment manufacturing. Wages lower than the Federal minimum wage are possible because the Federal minimum wage was not extended to the Northern Mariana Islands. The garment industry takes advantage of the immigration and minimum wage exemption privileges, as well as privileged exceptions to the Federal trade laws, to ship products partially manufactured in the islands into the United States market even though the islands are outside the customs territory of the United States.

Federal officials have expressed concern about the CNMI alien labor system since at least 1984, when the Interior Department's Assistant Secretary for Territorial and International Affairs first officially suggested the extension of Federal immigration authority as provided in section 503 of the Covenant. Despite repeated expressions of Federal concern with CNMI policies, the CNMI imported increasing numbers of temporary alien workers and promoted the garment industry's expansion. The Congress, in 1994, directed the establishment of a joint program with the CNMI to respond to the widening range of labor, immigration, and law enforcement problems. After three years under this Federal-CNMI Initiative on Labor, Immigration, and Law Enforcement (Initiative), agencies report that these negative trends not only persist, but in a number of instances, are worsening:

United States citizens—mostly indigenous people—are now a minority of the population. The CNMI population has grown by 250 percent since the 1980 census. Temporary alien workers now comprise 69 percent of the labor force. The children of alien mothers not born in the CNMI, the United States or the freely associated states account for 16 percent of United States citizens in the CNMI.

The Immigration and Naturalization Service finds that the CNMI immigration system is ineffective, resulting in a large CNMI illegal immigrant population and the smuggling of illegals into the United States immigration zone. Estimates of illegal aliens in the CNMI range from 4.2 percent to 25.5 percent of United States citizen population in the CNMI. The Department of Justice finds that the foreign criminal presence is increasing.

Alien workers account for over 90 percent of the CNMI's private sector workforce, while unemployment among locally-born United States citizens is at 14.2 percent.

Worker complaints over wages due and working conditions continue undiminished, with the governments of the Philippines and China expressing concern about the treatment of their citizens. Allegations persist regarding the CHMI's inability to protect workers against crimes such as illegal recruitment, battery, rape, child labor, and forced prostitution.

Some workers labor under ''shadow'' or secondary contracts signed in their home country that subvert their rights under the Constitution of the United States, such as their right to engage in political and religious activities while on United States soil.

CNMI alien labor policies are having a profound negative effect on public services and infrastructure such as education, health care, public safety, water, sewer, and solid waste disposal.

Apparel manufacturers operating in the CNMI, who mainly employ workers from the People's Republic of China, label their products ''Made in USA'', and use Chinese fabric not subject to United States duty or quota. By using the CNMI as an apparel manufacturing base, these manufacturers avoid duties and are not subject to United States quotas on finished products. These imports adversely affect the United States apparel industry's employment and profits.

The CNMI is a producer of several sensitive apparel products where United States producers' share of the market is 50 percent or less. Imports of these sensitive apparel products from the CNMI, at an average landed value of $462.7 million in 1996, represented 5.7 percent of total United States imports of these products. In recent years, total garment shipments from the CNMI to the United States have increased by 30 percent a year, with an acceleration to 45 percent in the first four months of 1997 over the same months in 1996. The average landed value of CNMI garment shipments to the United States is now at a rate of $625 million annually.

Federal agencies have worked closely with the CNMI leaders to correct these problems under the Initiative. Work continues with many conscientious CNMI officials. The Administration, however, finds that the government of the CNMI is unwilling to alter its basic immigration, minimum wage, and garment manufacturing policies; and that there are fundamental weaknesses in law enforcement.

The Administration, therefore, believes that a Federal policy framework addressing immigration, minimum wage, and the duty-free shipment of products is needed to properly address these problems and to promote CNMI economic development consistent with our country's policies and values.

Accordingly, the Administration recommends that the Congress extend Federal

immigration and minimum wage policies as provided in section 503 of the Covenant. In addition, the Administration recommends that the Congress close the loophole being exploited by the CNMI garment industry by requiring certification that at least 50 percent United States labor (and freely associated state citizen labor) is employed in order for products to carry the ''Made in USA'' label and receive duty-free access to the United States market. Finally, in order to minimize adverse economic consequences, the Administration plans to work with CNMI representatives, and proposes that these measures be phased in by the Congress in a reasonable and appropriate manner.

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DEPARTMENT OF STATE, OFFICE OF CHINESE AND MONGOLIAN AFFAIRS

Date: July 22, 1997.

To: Patrick McGary, Office of Senator Akaka.

From: Cari Enav.

RE: Hiuzhou Corporation of the Overseas Labor Service.

Message: According to the Huizhou Foreign Affairs Office, the Huizhou Corporation of the Overseas Labor Services is state-owned enterprise. It is under the municipal labor bureau.

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CONGRESSIONAL RESEARCH SERVICE,
LIBRARY OF CONGRESS,
*Washington, DC.*

OVERSEAS LABOR CONTRACT

Party A: Hui Zhou Company of the Overseas Labor Services, Guangdong Province.

Part B: Name redacted.

Party B, of his own free will, accepts the invitation of Party A to engage in carpentry work on Saiban Island [transliteration] for a term of two years. Party A and Party B both agree to abide by the following terms and conditions:

1. From the date of the signing of this contract by Party A and Party B, Party B agrees to obey the leadership of and accept arrangements made by Party A, and comply with rules and regulations made by Party A. During the period when Party B is sent to work overseas, Party B must strictly observe decrees, laws and regulations of the local government; may not participate locally in any political or religious activities; and, among other things, may not engage in smuggling, prostitution, theft, gambling, drugs, fighting, excessive drinking, or watching pornographic videos. While working overseas, Party B may not date or get married. Any violation of the aforesaid may entail investigation into financial and legal liabilities, including deduction and/or withholding of salary and/or bonus as well as payment for round trip expenses, or punishment in accordance with the relevant criminal laws, depending on the seriousness of circumstances.

2. While fulfilling his contractual obligations, Party B shall accept reasonable work arrangements made by the employer; work diligently; may not be, for any reason, slack at work; may not, without permission, request the employer to change the type of work or increase the salary; may not look for other employment locally; and may not go on strike. An individual who has violated the aforesaid agreement shall be subject to action by Party A, and employment may be terminated immediately; such individual will bear responsibility for round trip expenses, and will be liable for all financial losses thus incurred, in accordance with the seriousness of the impact on foreign affairs.

3. Party B shall provide labor services for the term of the contract, and may not suspend service unilaterally, or request an early return to China. Party B shall [illegible] to overcome family difficulties, if any, and may not use such difficulties as an excuse to suspend service or return to China early. If it becomes impossible for Party B to work due to the employer's failure to arrange appropriate work or for any other reason caused by the employer, Party B can accurately report the situation to Party A. Party A shall have the responsibility to negotiate with and make representations to the employer, according to contractual terms and conditions, and Party B shall abide by the decision made through consultations and negotiations between Party A and the employer.

Upon expiration of the contract, the term of the service may be extended appropriately based on the work requirements, and Party B shall, in principle, comply with the decision made by Party A.

4. Upon completion of the service, Party B may not [illegible] stay overseas, and shall return to China strictly according to the route provided. Party B may not carry contraband on entry or exit at customs, or sell foreign currency or duty-free goods for profit.

5. While providing labor service oveseas, Party B shall receive a monthly salary of ___, of which ___ will be remitted to China, together with the domestic management fee, and converted into RMB based on the prevailing market quotation for his or her family. Payment for overtime and bonuses shall, in principle, be made by the employer directly to Party B.

6. While working overseas, Party B may not borrow money from or lend money to the employer or any other party.

7. Party B agrees to pay a deposit in the amount of RMB 3,000. When Party B returns his or her passport, Party A shall return to Party B the entire amount of the deposit. Party B agrees to pay a fee in the amount of RMB 400 for the handling of necessary dcuments. If, for some reason, Party B is unable to work overseas after Party A has completed the necessary procedures required for Party B to work overseas, the deposit and handling fee will not be returned to Party B. If Party B is unable to work overseas for reasons caused by Party A, the deposit and 50% of the handling fee shall be refunded.

8. If Party B has the need [illegible] economic [illegible] while working overseas, such compensation shall also be deducted from the deposit.

9. If a situation arises where Party B is required to make compensation, but is unable to make the payment while he or she is working overseas, the guarantor agrees to make the payment for financial compensation on behalf of Party B, while Party B accepts full financial responsibilities.

10. During the period of Party B's labor services, the employer shall be responsible for all expenses for transportation to and from work, return airfare to China, room and board, medical insurance, life insurance and applicable taxes imposed by the local country. Party A shall urge the employer to provide various benefits that Party B shall be entitled to while working overseas, as provided in the labor service contract.

11. This contract has three copies, one each for Party A, Party B and the guarantor. All three copies have equal legal effect. This contract shall take effect from the date of signing. Party A shall formally notify Party B, upon his or her return to China of the termination of the employment relationship, and this contact shall automatically become invalid.

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[From the Washington Times, June 20, 1997]

NORTHERN MARIANAS HIT AS RIGHTS ABUSER

NATIVES TAKE ADVANTAGE OF GUEST WORKERS

(By Henry Hurt)

Wendy Doromal was asleep in her home on the island of Rota when the telephone rang at 5:30 a.m. A housekeeper named Thelma Landeza, the caller said, had been raped by her employer, a politically well-connected businessman. Afraid to go to the local authorities, Mrs. Landeza had walked for hours to the refuge of an underground network on Rota.

Mrs. Doromal, then 40, quickly dressed and set out to help. Such missions were in stark contrast to what the art teacher from Vernon, Conn., expected when she first came to the U.S.-owned Northern Mariana Islands, a scattering of volcanic specks in the western Pacific Ocean.

Mrs. Doromal and her family loved Rota's sandy beaches and clear, blue ocean. But drastic changes were taking place in this paradise—changes that have deeply stained America's reputation as the champion of human rights all over the world.

Lured by fee-driven recruiters, thousands of poor Asian ''guest workers'' were entering the Northern Marianas. Virtually every native household had at least one Philippine maid.

Mrs. Doromal soon discovered serious cases of workers being cheated out of wages and physically abused. The transgressors were the native population—an elite minority who maintained effective control of every government function. Although the newcomers outnumbered the natives, they had no voice or vote. And so Wendy Doromal, less than 5 feet tall but forceful and articulate, gradually became their advocate.

''When I saw Thelma that morning,'' Mrs. Doromal recalls, ''the fear shot from her face into my heart. She'd been beaten and she was crying and trembling.''

Mrs. Landeza's tale was harrowing. At 38 and widowed, the small, sweet-faced woman had sought work in the Northern Marianas to send money to her five children in the Philippines. ''It was supposed to be like going to America,'' she said.

But that's not the way it turned out for Mrs. Landeza or thousands of other men and women like her. From 1990 to 1993, she says, she was paid the domestic wage of 69 cents an hour for 12-hour days; she also was ''rented out'' to another party for an additional six hours a day, for which she never saw a cent. Mrs. Landeza was supposed to have Sundays off but says she did not.

Like many other workers, Mrs. Landeza was afraid to complain to local labor officials. She says her boss, Rafael Quitugua, flaunted his connections with those very people. She couldn't risk being returned jobless to the Philippines.

Then, according to Mrs. Landeza, on the night of Oct. 16, 1993, Mr. Quitugua ordered her to clean up a bar he owned. Driving her back home, the man reached for Mrs. Landeza and said, ''I like you very much.'' He veered down a path toward an isolated beach.

NO ACTION TAKEN

''I screamed and fought him and begged him to take me home,'' she said. ''But he beat me and finally raped me. He said, 'If you ever tell what happened, I'll kill you.'''

Mrs. Doromal didn't want this to become another unprosecuted case because of ''insufficient evidence.'' So she and Mrs. Landeza took the first morning flight to the island of Saipan, the Northern Marianas' seat of government.

There, Dr. David McGarey of the Commonwealth Health Center noted abrasions on Mrs. Landeza's body. He diagnosed ''apparent rape'' and collected specimens for a rape evidence kit that he turned over to authorities.

Mrs. Doromal also summoned Renato Villapando, principal officer of the Philippine consulate. To assure immediate attention, he wrote a detailed account of Mrs.

Landeza's story that he sent to the attorney general of the Northern Marianas.

Weeks passed, however, and then months. No charges were brought. Mr. Quitugua, meanwhile, maintained his innocence.

American interest in the Northern Marianas was born in the blood of 5,289 troops who died there in 1944 wresting the islands from the Japanese. The territories languished for decades until 1976, when the U.S. Congress created the Commonwealth of the Northern Mariana Islands (CNMI).

A decade later, its residents became American citizens. Under the agreement, Congress allowed the CNMI to set its own immigration policies, and the U.S. minimum wage would not apply to its workers.

The result was rapid economic growth as entrepreneurs flocked to Saipan to open factories and develop tourism. The most common products were garments carrying the coveted ''Made in U.S.A.'' label that entered the U.S. mainland duty-free. From all over Asia, especially the Philippines, destitute workers arrived to work in these factories and in the islands' booming hotels, restaurants and bars.

Their wages, though higher than in their native countries, were quite low—and remain so today. The biggest winners are the natives. The law grants a legal monopoly of all land in the Northern Marianas to these Pacific islanders, who can lease their property to factory and hotel operators at handsome prices.

Today only about 38 percent of the CNMI population of 59,000 is of native descent.

''They are an exclusive minority with the power to dominate and exploit others,'' said Mikel W. Schwab, assistant U.S. attorney and chief of the civil division that oversees the CNMI. ''What's missing is equal protection under the law.''

Responsibility for human rights abuses lies ultimately with the U.S. Congress, which oversees CNMI wage and immigration policies. Legislation addressing these issues is now being considered.

The case of Thelma Landeza was one of more than 500 complaints that reached Mrs. Doromal starting in 1989.

While more than half the cases involved wage disputes, others included workers tortured, forced into prostitution and held in sexual servitude.

''In my own experience as a civil prosecutor,'' said Mr. Schwab, ''I have witnessed a level of human exploitation that makes Doromal's cases ring with credibility.''

But his civil division had no primary authority to investigate or prosecute rapes and assaults that occurred in jurisdictions under the control of the CNMI attorney general's office.

Mrs. Doromal and her husband, Boboy, provided food and shelter for workers and helped them file complaints. Most important, they stood beside them in the face of predictable wrath from their employers and government officials.

HOLLOW PROMISES

As Mrs. Doromal continued her fearless campaign, CNMI authorities sought to discredit her. She was accused of everything from fabricating stories to harboring illegal workers. By the summer of 1994, however, her files had become the basis for a government task force investigation.

Growing publicity about worker abuses set off local rage against Mrs. Doromal and her family. Anonymous phone calls threatened death. The tires of the family car were slashed. Her family was ostracized, and this pressure forced Mrs. Doromal to resign from her teaching position.

On Aug. 29, 1994, the Doromals fled to Saipan. There, CNMI Gov. Froilan C. Tenorio met with Mrs. Doromal and assured her that the worst labor abusers would be prosecuted.

In September, Mr. Tenorio sat before a U.S. Senate subcommittee in Washington. With great humility he conceded that many of the charges reported in the press—which were first raised by Mrs. Doromal—were accurate:

''I am saddened and ashamed. Workers have been cheated and forced to live in subhuman conditions, locked in during nonwork hours, and been beaten and raped. Our administration will do everything in our power to end labor abuse''.

BLAMING THE VICTIM

A few days after meeting with Mr. Tenorio, Mrs. Doromal received a call from Rota's underground network. A hysterical young woman named Teresa—not her real name—was claiming that for several weeks she had been locked up by her employer and repeatedly raped.

Mrs Doromal arranged for Teresa to be brought to a Saipan hospital. ''She kept going into corners and rocking back and forth, crying,'' Mrs. Doromal said.

Teresa, 24, was an animated woman who had studied hotel and restaurant management in the Philippines. But employment there was scarce. A job on Rota with an establishment described by the recruiter as an ''upscale restaurant'' seemed the surest route to good money. The establishment, however, was little more than a brothel.

In desperation, Teresa accepted the friendly overtures of a politically well-connected many who got her out of the club. Teresa says she went to work for him—only to be locked in a remote farmhouse where she was tied up, beaten and raped daily until she escaped after three weeks.

Under the glare of publicity stirred up by Mrs. Doromal, the CNMI attorney general's office investigated Teresa's case. Four months later, it concluded that the evidence was insufficient to go to trial. The case was dropped.

Two weeks after Teresa's case was dropped, Mr. Tenorio was back in Washington to inform Congress that his administration was making substantial progress in cleaning up human rights violations. Employers who abuse contract workers, he said, ''are being investigated, prosecuted and convicted.''

To Mrs. Doromal, such words meant that nothing had changed. But with no regular job, her family couldn't stay in the Northern Marianas; they returned to the U.S. mainland in May 1995.

In December 1995, nearly a year after Mr. Tenorio last told Congress he was cleaning up human right violations, Maria—not her real name—a tiny Philippine woman with a childlike face, stood frozen on the stage of a Rota nightclub tears in her eyes. It was Maria's first night of work, and she had been promised she would never be asked to dance nude. But now amid catcalls, her boss was demanding that she strip.

He threatened her until she gave in. But that wasn't enough; soon he demanded that she have sex with him and ''go out with customers.'' Maria refused. She was forced from her job and returned to the Philippines, where she told her story to Reader's Digest.

Despite such reports, CNMI acting Attorney General Robert B. Dunlap II claims conditions are much improved.

''We sent two investigators to Rota,'' he said. ''They stayed a week trying to attract a prostitute—and never found one.''

Mr. Tenorio, up for re-election in November, maintains he is doing all he can to make a good situation for contract workers even better. Meanwhile, he is conducting a $1 million public relations campaign to shore up the CNMI's image, bringing dozens of congressmen and staffers to tour the Northern Marianas.

''The thinking is 'Don't fix the problem, fix the image,''' said Eric Grigoire, a New Jersey native who is the human rights advocate for the Catholic Church in the Northern Marianas. He is still summoned to Rota regularly by Mrs. Doromal's original underground network.

What of Thelma Landeza? In February 1995—more than 16 months after she reported being kidnapped, raped and beaten—her boss, Rafael Quitugua, was charged with the crime, He pleaded not guilty. In December 1995 the charge was dropped.

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[From the Star-Bulletin, June 6, 1997]

EXPLOITED IN SAIPAN SEX BAR, TEEN FINDS HAVEN HERE

ISLE FILIPINO COALITION FOR SOLIDARITY IS A GODSEND FOR ABUSED WORKERS

(By Susan Kreifels)

Katrina turns 16 Monday, finally getting a taste of sweetness in her otherwise bitter dose of life.

Hawaii's Filipino Coalition for Solidarity has provided the teenage girl haven since March from her grim life in Saipan, where she said she had been sexually exploited in a barroom since she was 14.

The civil rights advocacy group hopes to find a way to keep her in the United States, far from threats from her former employers, who now face a federal lawsuit on Saipan for alleged violations of child labor and wage laws.

Katrina is the young girl's stage name. Her real name is being withheld to protect her identity in the eighth-grade classroom she now attends on Oahu.

Born in Manila to a poor squatter family, she ran away when she was 13, ending up in the arms of unscrupulous recruiters.

Although she admits she lied that she was 19 in the beginning, Katrina said she later told the recruiters her real age.

But, according to the girl, the recruiters arranged a passport that claimed she was born in 1974 instead of 1981.

Katrina ended up in Saipan, where her recruiter-boss promised to make her a ''starlet.'' But for the then 14-year-old, it was a horror role in which customers abused her naked body and had live sex with her and other bar girls on stage.

Performances, she said, were videotaped. If she didn't do what she was told, her bosses threatened to ship her back to the Philippines at her own expense.

''I was scared. I don't have any money. What happens to me? Maybe I will die.''

Katrina describes her life as one much older than her years.

She and other Filipino women who worked in the Saipan bar stayed in barracks, virtual prisoners who couldn't go out. ''They treated us like animals.''

She sent most of her salary home to her mother.

''In school, I was very religious. I feel there is no God anymore. I prayed but no response,'' she said.

She drank alcohol every night because ''it's easier to do anything if you're drunk. You can't really feel anything.

''I try to put it behind me. Sometimes I think, how did I do that? Animal people only do that. I get depressed.''

Last October she went to government labor officials on Saipan and filed a complaint, which led to the U.S. Department of Labor lawsuit. Her former employers tried to bribe her to give up her complaint, ''but I wanted to see justice.''

And, she says with some disbelief, ''after all I experienced, suddenly I'm here.''

COALITION MONITORS SAIPAN

Nic Musico of the Filipino Coalition for Solidarity said the Hawaii group has been

monitoring abuse of Filipino workers in the Commonwealth of Northern Mariana Islands, a U.S. territory 3,900 miles west of Hawaii, for the last four years. The group has given haven to other Filipino workers.

The commonwealth, which doesn't fall under U.S. wage or immigration laws, offers low minimum wages ($2.95) and tax incentives that have fueled Saipan's $500 million-a-year garment industry. More than 30,000 imported laborers from the Philippines, China and other Asian countries work the mills on this small island of 25,000 citizens. The government says without the foreign workers, its garment and tourism industry would collapse.

There were more than 500 labor complaints filed last year, according to the commonwealth government. Some are passed along to the U.S. Department of Labor to pursue. In 1994, the department successfully sued a Japanese company that owned several bars employing underage girls.

The lawsuit involving Katrina and her coworkers, filed in the U.S. District Court in Saipan, is not expected to go to trial until late this year. Defendants Eugene R. Zamora, Sr., and Marylou ''Malou'' Zamora, whom Katrina said brought her to Saipan from the Philippines, are believed to have returned to their home country. Defendant Francisco Matsunaga, the Zamoras' partner at the Club Kalesa, where Katrina worked, died last November.

Michael Bayer, wage and hour investigator on Saipan for the U.S. Department of Labor, said the foreign workers are tied to one-year contracts they know don't have to be renewed.

''The more abused, poor, desperate they are in their home country, the more willing they are to put up with someplace else,'' said Bayer, emphasizing he was giving a personal opinion rather than an official one. ''They have no voice. There are no unions. The only outlet is to file a complaint.''

CLINTON SENDS WARNING

There are moves in Congress to force the commonwealth to comply with U.S. wage and immigration laws. Last week President Clinton sent commonwealth Gov. Froilan C. Tenorio a letter warning that his administration would work with Congress to extend U.S. laws there:

''The minimum wage is plainly inadequate; there have been persistent incidents of improper treatment of alien workers and inadequate enforcement of their rights; and manufacturers using foreign workers unfairly compete with other production under the U.S. flag,'' Clinton's letter said. He said he would work with Congress to amend the 1976 covenant that created a political union with the islands and made their residents U.S. citizens but allowed the commonwealth to control its immigration and minimum wage.

Dave Ecret, acting public information officer for Tenorlo's office, said the commonwealth has made ''tremendous improvements'' in the labor situation and believes Clinton has been misinformed of the current situation.

Some Republicans in Congress agree. Rep. Dick Armey, House majority leader, and Rep. Tom DeLay, House majority whip, assured Tenorio this week in a letter that any legislation that would ''harm the economic, social or political well being of the CNMI is counter to the principles of the Republican Party, and this Congress has no intention of voting on such legislation.'' The two commended the islands for their commitment to ending labor problems.

AKAKA BACKS CLINTON

Hawaii's Sen. Daniel Akaka, a Democrat, said yesterday at he supported Clinton's letter and would work to bring changes in the commonwealth, where ''horror stories of labor abuses continue to abound, while CNMI (commonwealth) officials launch a public relations campaign touting the territory as an economic model for the rest of the nation.''

Ecret said the government has forced companies to clean up workers' barracks and doubled the commonwealth government's immigration and labor staffs to more quickly resolve abuse cases.

Ecret also said businesses must pay room and board in addition to minimum wages, raising the cost of labor of Saipan. He said any changes in labor and immigration laws on Saipan would be ''devastating'' to the economy.

While politicians debate the bigger issues, members of the Filipino Coalition for Solidarity are working to protect the people caught up in them, like Katrina. Musico said his group has solicited people to adopt Katrina, but time is running out—an adoption application must be filed before she turns 16. Musico is more optimistic that she will be granted special asylum.

For now, Katrina has been given permission to stay in the United States until November.

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By Mr. CRAIG (for himself, Mr. MURKOWSKI, Mr. REID, Mr. BRYAN, Mr. BENNETT, Mr. BURNS, Mr. HATCH, Mr. THOMAS, Mr. CAMPBELL, Mr. STEVENS, and Mr. KEMPTHORNE):

S. 1102. A bill to amend the general mining laws to provide a reasonable royalty from mineral activities on Federal lands, to specify reclamation requirements for mineral activities on Federal lands, to create a State program for the reclamation of abandoned hard rock mining sites on Federal lands, and for other purposes; to the Committee on Energy and Natural Resources.

THE MINING LAW REFORM ACT OF 1997

Mr. CRAIG. Mr. President, in the last Congress, Members in the Senate and our colleagues in the other Chamber worked hard to reform the laws under which the U.S. mining industry operate on the vast Federal lands of the west. Members on both sides of the aisle, from all regions of the country, acknowledged that the Mining Law of 1872 needed change. This body and the other body passed legislation to reform the mining law only to have our efforts vetoed by the President. I believe it is time to make another effort to pass mining reform legislation and to engage the Clinton administration in meaningful discussion that can bring to a close the long and fruitless debate we have so far had on this issue.

Today, I am introducing, a bipartisan bill in conjunction with Chairman MURKOWSKI, Senator REID, and Senator BRYAN and five other of our colleagues to legislatively solve the problems that we see with the mining law. The Mining Law Reform Act of 1997, is a bill which will ensure continued mineral production in the United States. It provides for a fair economic return from minerals extracted on public lands, and will link mining practices on federal lands to State and Federal environmental laws and land-use plans. This bill provides a balanced and equitable solution to concerns raised over the existing mining law.

Mining in the United States is an important part of our nation's economy. It serves the national interest by maintaining a steady and reliable supply of the materials that drive our industries. Revenue from mining fuels local economies by providing family income and preserving community tax bases. Mining has become an American success story. Fifteen years ago, U.S. manufacturers were forced to rely on foreign producers for 75 percent of the gold they needed. Today, the U.S. is more than self-sufficient. The combined direct and indirect impact on the economy of our nation by the mining industry in 1995 was almost $524 billion. This is nine times the value of the actual minerals that were mined. Obviously we are talking about a very significant portion of our economy and one that we can not cavalierly assign to the economic antique shed. This information is from a recent report by the Western Economic Analysis Center. I ask unanimous consent that the summary of this report be made a part of the RECORD.

Mining, however, is a business associated with enormous up-front costs and marginal profits. Excessive royalties discourage, and in other countries have discouraged, mineral exploration. Too large a royalty would undermine the competitiveness of the mining industry. The end result of excessive government involvement would be the movement of mining operations overseas and the loss of American jobs. The legislation I am introducing today will keep U.S. mines competitive and prevent the movement of U.S. jobs to other countries.

The General Mining Law is the cornerstone of U.S. mining practices. It establishes a useful relationship between industry and government to promote the extraction of minerals from mineral rich Federal lands. Although the cornerstone of this laws was originally enacted in 1872, it remains to function effectively today. The law has been amended and revised many times since its original passage. The legislation I am introducing today preserves the solid foundation provided by this law and makes some important revisions that address the concerns that have been paramount in this debate that I have been involved in for nearly a decade.

Specifically, the Mining Law Reform Act of 1997 will insure revenue to the Federal Government by imposing fair and equitable fees and a net royalty. It requires payment of fair market value for lands to be mined. It assures lands will return to the public sector if they are not developed for mineral production, as is intended in this legislation. Furthermore, to prevent mining interests from using patented land for purposes other than mining, the bill limits occupancy to that which is only necessary to carry out mining activities.

To ensure mining activities do not unnecessarily degrade Federal lands,

the Mining Law Reform Act mandates compliance with all Federal, State and local environmental laws with regard to land use and reclamation. To enforce these provisions, the bill includes civil penalties and the authority for compliance orders.

Finally, this bill creates a program to address the environmental problems associated with abandoned mines. Working directly with the States, the Mining Law Reform Act directs fees and royalty receipts to the abandoned mine cleanup programs. It is time we have a workable mechanism to clean up these relics of the past.

The legislation we are proposing today is in the best interest of the American people because it provides revenue from public resources, assures mines will be developed in an environmentally sensitive manner and that abandoned mines from earlier eras will be reclaimed. It is fair to mining interests because it imposes reasonable fees and royalties, and it is good for the environment because it assures that sound land use and reclamation practices are followed. I ask my colleagues to join me in support of this legislation and look forward to hearings and Senate legislative action.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MINING AND THE AMERICAN ECONOMY

EVERYTHING BEGINS WITH MINING

(Prepared by George F. Leaming, Ph.D.)

*Combined Direct and Indirect Impacts of Mining, 1995*

| | *Values in millions of dollars* |
|---|---|
| California | $52,475.866 |
| New York | 31,005.248 |
| Texas | 28,971.894 |
| Pennsylvania | 28,643.365 |
| Michigan | 26,229.092 |
| Ohio | 24,964.148 |
| Illinois | 23,932.294 |
| Florida | 19,703.096 |
| Kentucky | 16,331.941 |
| West Virginia | 15,277.424 |
| Indiana | 14,232.916 |
| New Jersey | 14,104.661 |
| Arizona | 13,715.868 |
| North Carolina | 13,090.456 |
| Minnesota | 12,970.055 |
| Massachusetts | 12,794.139 |
| Virginia | 11,498.840 |
| Georgia | 11,202.431 |
| Alabama | 11,027.917 |
| Missouri | 10,162.067 |
| All Other States | 131,270.339 |
| Total impact | 523,604.058 |

SUMMARY

The American mining industry had a combined direct and indirect impact on the economy of the United States in 1995 of almost $524 billion. That $523.6 billion total economic benefit was nearly nine times the value of the solid minerals that were mined in the United States that year.

Nearly five million Americans had jobs in 1995 as a result of the combined direct and indirect contributions of the mining industry to personal, business, and government income throughout the nation. The total number of jobs created both directly and indirectly in the nation's economy by the domestic mining industry was more than 15 times the number of workers directly involved in mining.

The nation's business firms realized the greatest benefits from the mining industry's monetary contributions to the American economy in 1995. The nearly $296 billion in sales revenues obtained by domestic business firms directly and indirectly as a result of the income stream created by mining comprised 56% of the industry's total impact on the nation's economy.

Individual Americans and their families also received a significant amount of personal income as a result of mining's direct and indirect monetary contributions to the national economy in 1995. The nearly $144 billion received by residents of the United States in 1995 as a direct or indirect result of the income streams created by the mining industry amounted to more than three percent of all earnings received by the country's workers. It was more than the personal income earned by all of the residents of Georgia and Mississippi combined in 1995, and it was almost as much as the personal income received by the residents of Arkansas, Louisiana, and the District of Columbia from all sources. That $143.7 billion total of personal income from mining was enough to pay the wages of nearly five million American workers, only 6% of whom were actually employed in mining.

The federal government also shared in the economic benefit generated by the mining industry in 1995. Almost $57 billion in revenues received by the federal government in 1995 were generated either directly or indirectly from the income streams created by mining in the United States. That amounted to nearly 11% of mining's total contribution to the nation's economy.

State and local governments likewise shared in the contributions to the national economy made by the domestic mining industry. More than $27 billion of the revenues received by state and local governments throughout the country in 1995 were provided either directly or indirectly from the income streams that were created by mining. That was equivalent to about 4% of all state and local taxes levied in 1995. It represented about 5% of the entire monetary contribution of the nation's mining industry to the national economy. It gave government at all levels (federal, state, and local) a 16% share of mining's total contribution to the nation's economy.

Among the 50 states, California received the greatest economic benefit from the mining industry. The state ranked first in combined direct and indirect economic benefit from the mining of solid minerals, even though it ranked only fifth in the value of such minerals produced. The Californai economy gained more than $52 billion and 469,000 jobs in 1995 as a result of the combined direct and indirect impacts of mining in the United States. The gain came partly as a result of the state's role as a minerals producer and also as a manufacturing, trade, service, and financial center for much of the western United States as well as its role as a major beneficiary of the redistribution effects of the federal tax system.

*Table 1—Combined Direct and Indirect Contributions of the American Mining Industry to the Economies of the Individual United States, 1995*

| *State* | *Combined gain* |
|---|---|
| Alabama | $11,027,917,000 |
| Alaska | 1,342,592,000 |
| Arizona | 13,715,868,000 |
| Arkansas | 3,790,429,000 |
| California | 52,475,866,000 |
| Colorado | 7,634,613,000 |
| Connecticut | 6,922,838,000 |
| Delaware | 1,566,762,000 |

*Table 1—Combined Direct and Indirect Contributions of the American Mining Industry to the Economies of the Individual United States, 1995—Continued*

| *State* | *Combined gain* |
|---|---|
| Dist. of Columbia | 1,941,284,000 |
| Florida | 19,703,096,000 |
| Georgia | 11,202,431,000 |
| Hawaii | 1,605,841,000 |
| Idaho | 1,898,296,000 |
| Illinois | 23,932,294,000 |
| Indiana | 14,232,916,000 |
| Iowa | 5,032,141,000 |
| Kansas | 4,052,691,000 |
| Kentucky | 16,331,942,000 |
| Louisiana | 5,547,709,000 |
| Maine | 1,740,423,000 |
| Maryland | 7,465,306,000 |
| Massachusetts | 12,794,139,000 |
| Michigan | 26,229,092,000 |
| Minnesota | 12,970,055,000 |
| Mississippi | 3,267,550,000 |
| Missouri | 10,162,067,000 |
| Montana | 2,214,078,000 |
| Nebraska | 2,196,212,000 |
| Nevada | 7,067,021,000 |
| New Hampshire | 1,977,094,000 |
| New Jersey | 14,104,661,000 |
| New Mexico | 3,408,964,000 |
| New York | 31,005,248,000 |
| North Carolina | 13,090,456,000 |
| North Dakota | 1,014,968,000 |
| Ohio | 24,964,149,000 |
| Oklahoma | 4,882,853,000 |
| Oregon | 5,108,336,000 |
| Pennsylvania | 28,643,365,000 |
| Rhode Island | 1,612,602,000 |
| South Carolina | 5,821,461,000 |
| South Dakota | 1,494,319,000 |
| Tennessee | 9,460,228,000 |
| Texas | 28,971,894,000 |
| Utah | 6,906,968,000 |
| Vermont | 1,018,057,000 |
| Virginia | 11,498,840,000 |
| Washigton | 9,604,834,000 |
| West Virginia | 15,277,424,000 |
| Wisconsin | 9,706,482,000 |
| Wyoming | 3,967,386,000 |
| Total | 523,604,058,000 |

Source: Western Economic Analysis Center.

New York received the second greatest gain from the nation's mining industry in 1995, with a total boost to its economy of more than $31 billion and more than 227,000 jobs. The impact on New York was partly the result of the state's direct role as a minerals producer but more a result of its role as a major trade, manufacturing, and financial center and as a major beneficiary of the income redistribution effect of federal spending.

Texas was not far behind New York in total economic gain from mining in 1995. The state has the nation's eighth largest mining industry, directly providing more than 16,000 jobs. In 1995, the Texas economy gained almost $29 billion and more than 308,000 jobs as a direct and indirect result of mining in the United States.

Pennsylvania was very close behind Texas in total economic benefit from the mining industry in 1995. The state has a major mining industry of its own, ranking sixth in value of mine output in 1995, but its bigger gain came as a result of its position as a manufacturing center for the nation, selling products and services to mining and other enterprises in other states. In 1995, the Pennsylvania economy gained almost $29 billion and 246,000 jobs as a direct and indirect result of mining in the United States.

Among the top 20 states that gained the most personal, business, and government income directly and indirectly from mining in 1995, 12 of them, including California, New York, Pennsylvania, Michigan, Ohio, Illinois,

Indiana, New Jersey, Massachusetts, North Carolina, Virginia and Georgia, although they had significant mining industries of their own, actually received more business income from mining in other states. Their biggest gains come from selling products and services to mining enterprises in other states and through the disbursement of government revenues collected from firms that had mining operations in other states.

Among the 20 states that gained the most economically from mining in 1995, only two (California and Arizona) were in the public land areas of the West traditionally thought of as being the center of American mining. Six (Ohio, Illinois, Indiana, Michigan, Minnesota, and Missouri) were in the Midwest, while eight (Kentucky, West Virginia, Texas, Florida, North Carolina, Georgia, Virginia, and Alabama) were in the South and another four (New York, Pennsylvania, New Jersey, and Massachusetts) were in the Northeast.

More than 90% of the total impact of mining on the economy of the United States in 1995 was in the form of indirect personal, business, and government income generated by the circulation and recirculation through the nation's economy of the mining industry's direct payments to persons, other businesses, and governments. Those direct payments, while making up only 9% of the total impact, were themselves substantial, particularly in those states where mining activity took place and in states where manufacturers and other businesses produced products and services for use in mining.

Direct payments by mining firms to individuals, other businesses, and governments in the United States in 1995 totalled more than $48 billion. Of that total, the industry paid over $14.5 billion (30%) as personal income to employees, former employees, and stockholders. More than 85% of that amount went to pay the wages and salaries of current employees, while nearly all of the remaining 15% went to pay pensions to former employees and dividends to investors.

*Table 2—Direct Contributions of the American Mining Industry to the Economies of the Individual United States in 1995*

| State | Total direct impact |
|---|---|
| Alabama | $1,342,230,000 |
| Alaska | 213,388,000 |
| Arizona | 2,299,706,000 |
| Arkansas | 334,147,000 |
| California | 2,876,115,000 |
| Colorado | 801,267,000 |
| Connecticut | 328,546,000 |
| Delaware | 100,729,000 |
| Dist. of Columbia | 17,968,000 |
| Florida | 1,326,928,000 |
| Georgia | 829,196,000 |
| Hawaii | 80,974,000 |
| Idaho | 280,470,000 |
| Illinois | 1,719,495,000 |
| Indiana | 1,103,017,000 |
| Iowa | 433,192,000 |
| Kansas | 348,926,000 |
| Kentucky | 2,662,452,000 |
| Louisiana | 356,075,000 |
| Maine | 102,133,000 |
| Maryland | 369,080,000 |
| Massachusetts | 581,349,000 |
| Michigan | 1,644,407,000 |
| Minnesota | 1,301,183,000 |
| Mississippi | 200,552,000 |
| Missouri | 868,251,000 |
| Montana | 458,813,000 |
| Nebraska | 164,594,000 |
| Nevada | 1,728,137,000 |
| New Hampshire | 99,845,000 |
| New Jersey | 623,148,000 |
| New Mexico | 638,176,000 |
| New York | 1,314,774,000 |
| North Carolina | 876,359,000 |
| North Dakota | 150,558,000 |
| Ohio | 1,650,231,000 |

*Table 2—Direct Contributions of the American Mining Industry to the Economies of the Individual United States in 1995—Continued*

| State | Total direct impact |
|---|---|
| Oklahoma | 391,423,000 |
| Oregon | 387,101,000 |
| Pennsylvania | 2,300,648,000 |
| Rhode Island | 68,760,000 |
| South Carolina | 423,942,000 |
| South Dakota | 251,085,000 |
| Tennessee | 608,122,000 |
| Texas | 2,544,266,000 |
| Utah | 1,100,239,000 |
| Vermont | 72,397,000 |
| Virginia | 1,019,016,000 |
| Washington | 719,353,000 |
| West Virginia | 2,815,983,000 |
| Wisconsin | 608,016,000 |
| Wyoming | 1,361,726,000 |
| Wyoming | 1,361,726,000 |
| Total | 44,898,488,000 |

Totals do not include contributions to federal government revenues.

Source of data: Western Economic Analysis Center.

The biggest share (56%) of the mining industry's direct contributions to the national economy in 1995, however, went to other businesses to pay for the products and services used in the search for and production of minerals. Those direct payments to suppliers of materials, equipment, energy, and services used in mining amounted to over $27 billion. They were made to suppliers located in every state of the Union and the District of Columbia.

The nation's mining industry also made significant payments directly to state and local governments, largely in the states in which they conducted mining or processing operations. The amount of such direct payments by mining firms to state and local governments in 1995 approached $3.4 billion.

The federal government got even more. Direct payments by mining firms to the United States Government in payroll taxes, income taxes, and other taxes and fees surpassed $3.5 billion in 1995. That represented more than 7% of the industry's total direct contribution to the American economy last year.

The direct contributions of the mining industry to the economies of the various states in 1995 tended to be the greatest in those states in which the most mining activity was conducted and which had the most suppliers providing goods and services to mining firms in other states. Thus, California, with major metal mining, construction minerals, and industrial minerals mining industries, as well as large manufacturing, trade, services, and financial sectors serving mining firms in other states, led the list with a direct impact from mining of almost $2.9 billion. West Virginia, with the country's biggest coal mining industry (in terms of value), was second with a direct impact in 1995 of more than $2.8 billion.

Kentucky, with the nation's second largest coal mining industry, as third in impact with a direct impact on its economy of nearly $2.7 billion. Texas, with major metals, construction minerals, industrial minerals, and coal mining output, was fourth in direct impact with over $2.5 billion. Pennsylvania, the nation's fifth most important source of mined coal and third biggest producer of construction minerals, was fifth in direct impact with more than $2.3 billion.

Arizona, with the nation's largest copper mining industry was sixth, receiving a direct impact of nearly $2.3 billion, while Nevada, with the nation's largest gold mining industry, was seventh with a direct economic gain of more than $1.7 billion. Illinois was eighth, also with an impact of over $1.7 billion.

*Table 3—Total Employment Supported Directly and Indirectly by the American Mining Industry in the Individual United States, 1995*

| State | Total jobs |
|---|---|
| Alabama | 107,400 |
| Alaska | 12,000 |
| Arizona | 137,300 |
| Arkansas | 44,400 |
| California | 469,200 |
| Colorado | 77,300 |
| Connecticut | 54,400 |
| Delaware | 14,400 |
| Dist. of Columbia | 9,400 |
| Florida | 212,600 |
| Georgia | 121,300 |
| Hawaii | 18,300 |
| Idaho | 23,600 |
| Illinois | 209,400 |
| Indiana | 133,700 |
| Iowa | 57,200 |
| Kansas | 48,200 |
| Kentucky | 150,300 |
| Louisiana | 62,300 |
| Maine | 19,800 |
| Maryland | 79,300 |
| Massachusetts | 103,900 |
| Michigan | 203,300 |
| Minnesota | 113,300 |
| Mississippi | 41,500 |
| Missouri | 103,200 |
| Montana | 24,900 |
| Nebraska | 30,000 |
| Nevada | 63,000 |
| New Hampshire | 20,300 |
| New Jersey | 115,500 |
| New Mexico | 44,000 |
| New York | 227,500 |
| North Carolina | 140,400 |
| North Dakota | 13,300 |
| Ohio | 220,700 |
| Oklahoma | 52,700 |
| Oregon | 53,500 |
| Pennsylvania | 246,000 |
| Rhode Island | 15,900 |
| South Carolina | 65,900 |
| South Dakota | 19,800 |
| Tennessee | 98,300 |
| Texas | 308,000 |
| Utah | 66,200 |
| Vermont | 11,100 |
| Virginia | 124,800 |
| Washington | 92,300 |
| West Virginia | 132,700 |
| Wisconsin | 98,800 |
| Wyoming | 41,400 |
| Total | 4,954,000 |

Source of data: Western Economic Analysis Center.

THE IMPACT OF THE MINING INDUSTRIES ON THE ECONOMY OF THE UNITED STATES

In 1995, the mining industries had a combined direct and indirect impact on the economy of the United States of $523.604 billion including combined direct and indirect contributions of $143,742 billion in personal income (equal to 5 million jobs), $295.712 billion in business income, $56.992 billion in federal government revenues, and $27.158 billion in state and local government revenues.

As a result of the circulation (and multiplication) of the mining industry's total direct impact of $48.429 billion that included direct payments of $3.373 billion to state and local governments, $3.530 billion to the federal government, $27.023 billion to other American businesses, and $14.503 billion in personal income for Americans, including wages and salaries for the industry's 320,400 employees, who labored to produce minerals with a total value of $60.055 billion.

Mr. MURKOWSKI. Mr. President, I stand today to add my strong support for the introduction of this comprehensive package of reforms intended to bring this Nation's mining law into the 21st century.

There are few issues before the Senate that are more complex and contentious than mining law reform. Make no mistake, it is an issue within which major ideologies compete. The outcome of these debates will define for years to come the role public lands play in the Nation's ability to maintain a viable strategic mining capability.

Across the Nation—from the White House, and from within this very chamber we have been regaled with stirring speeches on the short comings of the 1872 mining law: the unfairness it imposes on the American people. Unfortunately this rhetoric has served only to inflame passions and polarize the American public on this complex issue.

It will come as no surprise why, under these circumstances, mining law reform has been such a difficult undertaking within the Congress. There is one additional circumstance which serves to frustrate legitimate efforts to bring mining reform negotiations to a successful culmination. Legitimate reformers within the administration and the Congress have been joined by those who see mining reform as the perfect vehicle for ending mining on public lands. With these forces there is no appeasement. As reform proposals move toward addressing legitimate concerns, the goal line is moved. As you can imagine, this causes a great deal of frustration among those of us engaged in serious reform efforts.

Be that as it may, the only unforgivable action this Senator could take would be to abandoned the effort. In the great debate before us I would ask you to look carefully at the issues—if you seek reform which brings a fair return to the public treasury, that protects the environment, and preserves the Nation's ability to produce strategic minerals—then you will find a great deal to support in the legislation we lay before you today.

I also take a great deal of pride in the fact that this legislation does not forget about the Nation's smallest mining operations. It will allow them to stay in business and to continue to compete on an even playing field with the larger, better financed operations. And for those of you who might wonder why small miners are important; you need only remember that the great majority of large mining operations across the country started out as a nothing more than a crazy idea inside the head of a prospector simply too stubborn to give up on their dream.

On the other hand, if it is your intention to use mining reform as a vehicle to end mining on public lands or punish mining companies for making a profit, then you will find little in my legislation to aid in your cause.

There is one resounding note of agreement across the Nation relating to mining reform—it is time to bring this piece of historic legislation into the 21st century.

However, in our zeal to bring about this necessary modernization, we must not forget what we are tinkering with. Bad decisions clouded with emotionally charged rhetoric can have devastating effects on a $5 billion industry. An industry whose products form the muscle and sinew of the Nation's entire industrial output. We are taking into our hands the well-being of 50,000 American miners, their families, and their communities. We will be reaching out and directly affecting the future well-being of thousands who derive their primary source of income manufacturing the goods and services which support this critical industry. We owe it to that industry, those people, their communities, and the entire American public to make good decisions. There is simply too much at stake to let our collective emotions get in the way of good decision making.

The Nation's first comprehensive mining laws were negotiated under torchlite miner's courts, over copious amounts of whiskey, and down the barrels of cocked six shooters. These laws literally emerged out of the muck and grime of the gold fields of California, the silver fields of Nevada, and countless other mining camps scattered across the American West. The initial law was designed to give every miner the opportunity to compete on an even playing field without fear of having his hard earned gain taken away during the dark of night. The law was also intended to give a young nation a self sufficiency in its mineral needs. The industrial revolution was upon us, and our mills and factories were hungry for the raw mineral feed stocks necessary to keep pace with the growing demand for industrial products.

And Mr. President I am here to tell you that we were successful. Due in no small part to the mining industry of this Nation and all the hard working miners, the United States moved to the pre-eminent position that enabled us to win two world wars and set a standard of living that is still the envy of the world.

This package of mining reforms contained in this legislation honors the past, recognizes the present, and sets the stage for a bright future.

This legislation honors the past by refusing to abandon the basic tenets of the Nation's mining law. A system that allows for the location, development and production of mineral resources off the public lands. Resources necessary to keep this country's mills and factories working at full capacity.

We recognize the present through the creation of fair reforms which recognize that over one hundred years have passed since the general mining laws went onto the books. During that time many changes have occurred in this country and the mining industry.

We set the stage for the future by placing instruments within the legislation that directs the reclamation of old abandoned mine sites and preventing abuses in the exercise of the rights authorized within the law.

Mr. President, we recognize that the time has come to reform the general mining laws. But it must be reform that fixes the things which are wrong without destroying this important industry and the lives and communities dependent on it.

The legislation we offer today does that but in such a way that corrects the problems with the law without killing the mining industry.

The legislation advances reforms in 4 general areas; royalty, patents, operations, and reclamation.

No area within the 1872 mining laws has been so greatly criticized as the failure on the part of that legislation to require royalty to be paid for minerals extracted from public land.

The legislation that we introduce today corrects this. It requires that 5 percent of the profit made from a mining operation on federal lands be paid to the federal government.

This legislation seeks a percentage of the profit, not the value of the mineral in place. We do this for very specific reasons. Failure to do so will cause the shutdown of many operations and prevent the opening of new mines. It will cause other operators to cast low ore concentrates onto the spoil pile as they seek out only the very highest grade ores.

Yes, highly profitable mines do exist and I am sure you are going to hear a lot about them from our opponents. But I can also assure you that there is an equal number that operate on the margin. Mines are like people, no two are alike. Through legislation we seek to create a one-size-fits-all royalty. If that royalty is designed to address highly profitable mines, many marginal mines will go under. That is why we designed our royalty to take a percentage of the profits. If the mine makes money, the public gets a share. This approach recognizes that the public benefits from a strong mining industry beyond the royalty it might collect. A continuous and competitive supply of metals to the Nation's mills and factories, high paying mining jobs, and healthy, viable communities also contribute to the common good.

I fail to see how the public good is served through the creation of a royalty system so intrusive that it must be paid for through the loss of jobs, the health of local communities, and the abandonment of lower grade mineral resources. For those of you who would dismiss these predictions need only look north of our borders to British Columbia to see living proof of this prediction. In 1974 they put a royalty on minerals before cost of production was factored in.

Five thousand miners lost their jobs, mining diminished to the point where only one new mine went into operation in 1976. The industry was devastated. The royalty was removed in 1978. Years later the industry still has not completely recovered.

Those who forget history are doomed to repeat it—let us not forget the experience of our neighbors to the north.

Patenting or the right to take title to lands containing minerals upon

demonstration that the parcel can support a profitable operation is another area targeted for intense criticisms by opponents to existing mining law.

There is no doubt that there have been serious abuses of this provision of the 1872 mining law. Unscrupulous individuals have located mineral operations for the soul purpose of gaining title and turning the land into a lodge, resort or ski area. These practices are wrong and should be corrected. But it should not be done in a way that punishes the great majority of miners who patent lands for the sole purpose of mining. Punishing everyone to get at the few is absolutely wrong and down right un-American.

The legislation we introduce today cures the problem without punishing the innocent. We would continue to issue patents to operators who are engaged in legitimate mining operations. However, we also include provisions allowing the Secretary to step in and reclaim lands should it be determined that they are no longer being used for mining.

This approach protects the legitimate miner while insuring that unscrupulous operators can no longer turn mining operations into other activities.

Much criticism has been levied in the past at the 1872 mining laws for what has been called the encouragement of speculative activities on mineralized lands. Because no controls were in place, any person could go out and stake lands purely for speculative purposes. This kept legitimate miners from accessing lands for development and burdened the bureaucracy with mining claims that had no real mineral potential.

The legislation we introduce today addresses this practice. It requires that a $25 filing fee be paid at the time the claim is filed, and makes permanent the $100 per year per claim maintenance fee. These fees will discourage speculative claim staking while allowing miners intent on mining access to lands.

The 1872 mining law did not address environmental protection. Our revisions weave a tight environmental safety net to protect the federal lands. We include a permit process which requires secretarial approval for all but the most minimal mineral related activities; furthermore, we require that lands disturbed by mining be reclaimed to prevent undue and unnecessary environmental degradation. To correct situations where mine operations are abandoned, this legislation requires all operations be fully bonded to pay for reclamation. We do this in ways that allow individual miners the opportunity to choose the bonding tool that best suits their individual needs while not losing sight of the overall reclamation goal.

While bonding assures that no further reclamation responsibilities will fall to the public, what about sites which have been abandoned in the past? I won't be breaking any secrets by telling you that discretionary funding for new projects around here is about as scarce as virtue at a lawyers convention. There is simply too much need with not enough dollars to go around. Does this mean that reclamation is not important? Not at all—there is no question that the reclamation of these abandoned sites needs to occur. The only question is where the dollars are going to come from and what other priority must fall to the side.

This legislation addresses this issue through the establishment of a mine reclamation fund. This fund is capitalized by the funds collected by this legislation. Filing fees, maintenance fees, and royalty collected all goes into the fund to pay for the reclamation work. This fund dovetails with other reclamation funds and fills the gaps. It is not duplicative.

The Nation's small miners will find that there are exemptions from the payment of fees for the first 25 claims, royalty relief for yearly profits of less than $50,000, authorizations to use state reclamation bonding pools, and the ability to maintain exclusive long term land use tenure.

For those who seek meaningful reform to the nation's general mining laws, this legislation does the job. It fixes past abuses without punishing the innocent. It establishes a partnership with miners to share in the profits of mining without putting people out of work. It works with existing environmental legislation to assure that mining operations are carried out with the least possible disturbance. It makes sure that the public does not have to pay for the inappropriate actions of the few while allowing the many to pursue their activities in a ways that do not jeopardize their financial well being. And, it sets up a process to pay for existing mine reclamation needs without taking money away from ongoing federal programs.

This is good legislation, it fixes existing problems without creating new ones. It establishes partnerships between the Federal and State governments and treats the mining community with respect and dignity without turning a blind eye to past indiscretion.

I recognize that we have an up-hill battle. Mining reform has been shrouded for far too long in a smokey veil of rhetoric and sensationalism. The complexity of the issue is such that before we can show any meaningful progress we must separate the voices of those who seek meaningful reform from those who are using the debates to prevent mining on public lands. I believe this legislation will do that—it provides a platform for reasonable discussion and negotiation without threatening to end mining on public land.

What we propose may not be poetic, but it does have a rock solid substance; it does not lend itself to catchy media blurbs, but it is genuine reform; it does not offer quick fixes; but it does make changes that are needed without punishing the innocent. It may not be pretty and it certainly is not easy to understand but I can promise you one thing—it will work.

Both sides of the mining reform debate have come a long way toward achieving meaningful compromise. I am certain that the legislative vehicle we launch today will carry us that last mile and finally bring us the reform that is needed.

Mr. BENNETT. Mr. President, I am pleased to join my colleagues in introducing the Mining Law Reform Act of 1997 today. The merits of this legislation have already been outlined by others, so I will not go into details. I believe that we have come a long way toward reaching a compromise and I congratulate the chairman for his willingness and his efforts to reach the middle ground.

Mr. President, in this time of economic prosperity, I find it worrisome that we must constantly remind the American people that our Nation's economic prosperity is largely dependent upon our ability to create wealth. The ability to create wealth depends upon ability to take a raw material that has little or no economic worth and turn it into something of value. The economic prosperity which we have experienced in this decade is due, in part, to the increased ability of our Nation's mining industry to create wealth out of our raw materials.

In my own State, there are some groups which argue that the mining industry is no longer needed, that it is a relic of the past. I hear from these same groups how tourism will be the savior of Utah's rural communities and if the people of rural Utah would only accept this, then everything will work out just fine. The economy will be strong, the environment will be protected and everyone will have a high standard of living.

Mr. President, I do not want to diminish in any way the important contribution that tourism provides to the economy of my State. Utahns encourage people to come and enjoy our ski slopes, our canyons, and our national parks. But much of the tourism industry is seasonal in nature. In some small communities in southern Utah, it takes two and one-half incomes to generate the average income. It is not uncommon to strike up a conversation with a waitress in the local cafe, and learn that her husband works two jobs to make ends meet. As one County Commissioner summarized recently, ''If tourism was really the answer, making beds, frying hamburgers, and pumping gas would have made us rich a long, long time ago.''

In 1995, the values of minerals mined in Utah exceeded $2.4 billion. Utah's direct economic gain from mining exceeded $1.1 billion, including $358 million in personal income gains. The average mining job in Utah pays about $36,000 a year. With this in mind, imagine the tremendous positive impact

that a few dozen mining jobs have in these communities. These jobs impact the local auto dealer, the real estate agent, the contractor, and the hardware store owner.

Mr. President, responsible and reasonable mining law reform should be enacted. But as we undertake these efforts, we must also recognize the important contribution of the mining industry to our Nation's economy. It makes no sense to enact mining law reform in the name of environmental protection or budgetary concerns, if these reforms in turn force industry offshore where environmental restrictions are not a consideration and some other country's government receives tax revenues. I urge my colleagues to keep this in mind.

I congratulate the chairman for his efforts and I look forward to working closely with him to enact this legislation.

THE MINING LAW REFORM ACT OF 1997

Mr. BRYAN. Mr. President, I am pleased to join many of my colleagues from the West today in introducing the Mining Law Reform Act of 1997.

The mining industry has always played an important role in our national economy, and particularly in the economies of many western States. From the discovery of the Comstock Lode in the 19th century, to the silver boom of the Goldfield-Tonopah area in the early 20th century, to the record levels of gold and silver production in the last decade, the mineral industry has historically played a vital role in Nevada's economy. For the fifth year in a row, Nevada's mines have collectively topped the 6 million ounce mark in gold production. In 1996, there was a total of 7.08 million ounces of gold produced in Nevada. The State's rich landscape has made Nevada the largest gold producer in the nation with 66.5 percent of all production. In addition, it now accounts for 10 percent of all the gold in the world.

The most recent information from the State of Nevada indicates that direct mining employment in Nevada exceeds 13,000 jobs. The average annual pay for these jobs, the highest of any sector in the state, is about $46,000, compared to the average salary in Nevada of about $26,000 per year. In addition to the direct employment in mining, there are an estimated 36,000 jobs in the state related to providing goods and services needed by the industry.

I would also like to note that Nevada mining companies must pay taxes like any other business, and they also pay an additional Nevada tax called the ''Net Proceeds of Mines Tax.'' The total Net Proceeds tax paid to the State in 1995 was approximately $33 million. With the addition of sales and property tax, the industry paid approximately $141 million in State and local taxes in 1995. In addition, the Nevada mining industry paid approximately $95 million in Federal taxes in 1995.

The figures and statistics I have just mentioned are significant not only to emphasize the importance of the mining industry to the State of Nevada, but also to provide a context for the criticism often leveled against the industry that they enjoy a free ride for mining activities on Federal land. The bottom line is that the mining industry pays taxes just like any other business, and in Nevada they pay an additional tax targeted specifically to their industry.

The issue of reclamation is also central to the mining law reform debate. I should note that Nevada has one of the toughest, if not the toughest, State reclamation programs in the country. Nevada mining companies are subject to a myriad of Federal and State environmental laws and regulations, including the Clean Water Act, Clean Air Act, and Endangered Species Act. Mining companies must secure literally dozens of environmental permits prior to commencing mining activities, including a reclamation permit, which must be obtained before a mineral exploration project or mining operation can be conducted. Companies must also file a surety or bond with the State or the Federal land manager in an amount sufficient to ensure reclamation of the entire site prior to receiving a reclamation permit.

It is in the context of promoting the economic viability of the mining industry and of encouraging strong environmental reclamation efforts administered by the States that I view the debate over the reform of the Mining Law of 1872. As I have stated many times over the years, I feel that certain aspects of the 1872 mining law are in need of reform. Specifically, I feel strongly that the patenting provision of the current law should be changed to provide for the payment of fair market value for the surface estate—our legislation does that. All patents should also include a reverter clause, which would ensure that patented public lands would revert to Federal ownership if no longer used for mining purposes—our legislation does that. I believe that mining laws reform legislation should ensure that any land used for mining purposes must be reclaimed pursuant to applicable Federal and State statutes—our legislation does that. And finally, I believe that mining law reform legislation should impose a reasonable royalty on mineral production from Federal land—our legislation does that.

The Mining Law Reform Act of 1997 addresses each of the concerns I have just outlined. It is my hope that this legislation will serve as the starting point for the debate over mining law reform this year.

The time has never been more critical for Congress to enact comprehensive mining law reform. The aura of uncertainty that the industry has been forced to operate under for the last decade is causing many companies to look overseas for their future operations. The number of United States and Canadian mining companies exploring or operating in Latin America continues to grow dramatically. We must enact mining reform this Congress if we hope to secure the economic benefits we derive as a Nation from a healthy mining industry.

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By Mr. MOYNIHAN (for himself, Mr. REID, Mrs. BOXER, Ms. MIKULSKI, and Mr. ROBB):

S. 1103. A bill to amend title 23, United States Code, to authorize Federal participation in financing of projects to demonstrate the feasibility of deployment of magnetic levitation transportation technology, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE MAGNETIC LEVITATION (MAGLEV) TRANSPORTATION TECHNOLOGY DEPLOYMENT ACT OF 1997

Mr. MOYNIHAN. Mr. President, I rise with a distinguished group of my colleagues to introduce the Magnetic Levitation Transportation Technology Deployment Act of 1997.

Maglev is the first new transportation technology envisioned since the development of aviation in the early 1900's, and its adoption represents an opportunity for dramatic national gains in transportation efficiency and economic growth. This legislation proposes to demonstrate the feasibility of Maglev by authorizing limited Federal participation in financing one or more Maglev projects in the United States.

Maglev is an advanced technology in which magnetic forces lift, propel, and guide a vehicle over a guideway. Utilizing state-of-the-art electric power and control systems, this configuration eliminates the need for wheels and many other mechanical parts, thereby minimizing friction and permitting cruising speeds of 300 miles per hour or more—three times the speed of conventional American train technology. Because of its high speeds and relatively modest right-of-way requirements, Maglev offers significant advantages over auto, rail, and aviation modes in 40- to 600-mile travel markets. Maglev is also a very safe technology since properly designed Maglev is virtually impossible to derail.

While Maglev was invented by a young American nuclear engineer in the 1960's, the Germans have developed the technology and have already built a demonstration Maglev test facility. They are now proceeding with a public/private project to construct a 181-mile Maglev system to connect Berlin to Hamburg. The German system, which is expected to be operational by 2005, will provide 1-hour service between the two cities. Not far behind Germany, Japan has its own Maglev system under test. Meanwhile, our Federal Government has done relatively little to develop this extraordinary technology.

In the last few years, however, the Federal Rail Administration has identified the feasibility of deployment of Maglev systems in several major U.S. transportation corridors. Also, several public/private partnerships in the United States have begun to develop

Maglev projects in a number of States, including California, Florida, Maryland, and Nevada. However, as with our European and Asian competitors, developing these Maglev projects will require Federal support to supplement the private and other public funding sources. Our bill would establish a competition for Federal funds, based on economic and financial criteria, among the various public/private Maglev project partnerships.

Because Maglev is a proven technology that offers significant benefits for both passengers and freight, it is in the National interest to demonstrate these benefits by proceeding to construct and put into service, at an early date, a project in the United States. This legislation will encourage such a project at minimum public cost.

I ask unanimous consent that the section-by-section analysis and the text of the Magnetic Levitation (Maglev) Transportation Technology Deployment Act of 1997 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1103

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Magnetic Levitation (MAGLEV) Transportation Technology Deployment Act of 1997''.

**SEC. 2. FINDINGS AND POLICY.**

(a) FINDINGS.—Congress finds that—

(1)(A) new transportation technologies are needed to develop new modes of transportation that are environmentally sound and energy efficient;

(B) very high- and super-speed magnetic levitation (referred to in this section as ''MAGLEV'') is the technology that appears to best meet the needs of the traveling public and high-value freight shippers in the 40- to 600-mile distance corridors;

(C) MAGLEV is energy efficient, consuming less energy per passenger mile at any given speed than other forms of transportation and reducing dependence on imported oil;

(D) since properly designed MAGLEV is virtually impossible to derail, MAGLEV is safe and will prevent accidents and loss of life, and will significantly reduce costs attributable to accidents occurring on highways, freight rail lines, intercity rail passenger service lines, commuter rail lines, and short haul airline routes of the United States;

(E) MAGLEV is virtually unaffected by weather conditions, which annually result in delays in other transportation modes employed by freight and passenger carriers; and

(F) MAGLEV makes extensive use of existing highway rights-of-way and consumes less land for its guideway infrastructure than a comparable roadway;

(2) the commercial feasibility study of high-speed ground transportation conducted under section 1036 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 1978)—

(A) demonstrates that MAGLEV systems have the potential for a public and private partnership under which the private sector could operate a system without operating subsidies and the total benefits of the system would exceed the total costs; and

(B) demonstrates that adding links or corridors to the basic MAGLEV system would enhance the basic system, leading to establishment of high-volume high-speed ground transportation networks; and

(3) the study required by section 359(d) of the National Highway System Designation Act of 1995 (Public Law 104–59; 109 Stat. 627) further demonstrates the potential for MAGLEV systems.

(b) POLICY.—It is the policy of the United States to establish a MAGLEV transportation technology system operating along Federal-aid highway and other rights-of-way as part of a national transportation system of the United States.

**SEC. 3. MAGNETIC LEVITATION TRANSPORTATION TECHNOLOGY DEPLOYMENT PROGRAM.**

(a) IN GENERAL.—Chapter 3 of title 23, United States Code, is amended by inserting after section 321 the following:

**''§ 322. Magnetic levitation transportation technology deployment program**

''(a) DEFINITIONS.—In this section:

''(1) ELIGIBLE PROJECT COSTS.—The term 'eligible project costs' means the capital cost of the fixed guideway infrastructure of a MAGLEV project, including land, piers, guideways, propulsion equipment and other components attached to guideways, power distribution facilities (including substations), control and communications facilities, access roads, and storage, repair, and maintenance facilities, but not including costs incurred for a new station.

''(2) FULL PROJECT COSTS.—The term 'full project costs' means the total capital costs of a MAGLEV project, including eligible project costs and the costs of stations, vehicles, and equipment.

''(3) MAGLEV.—The term 'MAGLEV' means transportation systems employing magnetic levitation that would be capable of safe use by the public at a speed in excess of 240 miles per hour.

''(4) PARTNERSHIP POTENTIAL.—The term 'partnership potential' has the meaning given the term in the commercial feasibility study of high-speed ground transportation conducted under section 1036 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 1978).

''(5) RECOGNIZED PILOT PROJECT.—The term 'recognized pilot project' means a project identified in the report transmitted by the Secretary to Congress on the near-term applications of magnetic levitation ground transportation technology in the United States as required by section 359(d) of the National Highway System Designation Act of 1995 (Public Law 104–59; 109 Stat. 627).

''(b) HIGH-SPEED GROUND TRANSPORTATION OFFICE.—

''(1) IN GENERAL.—Not later than 90 days after the date of enactment of the Magnetic Levitation (MAGLEV) Transportation Technology Deployment Act of 1997, the Secretary shall establish a High-Speed Ground Transportation Office in the Federal Railroad Administration to—

''(A) coordinate and administer all high-speed rail and MAGLEV programs authorized by this section and any other provision of this title or title 49; and

''(B) make available financial assistance to provide the Federal share of full project costs of eligible projects selected under this section and otherwise carry out this section.

''(2) FEDERAL SHARE.—The Federal share of full project costs under paragraph (1)(B) shall be not more than ⅔.

''(3) USE OF ASSISTANCE.—Financial assistance provided under paragraph (1)(B) shall be used only to pay eligible project costs of projects selected under this section.

''(c) SOLICITATION OF APPLICATIONS FOR ASSISTANCE.—Not later than 90 days after the establishment of the High-Speed Ground Transportation Office, the Secretary shall solicit applications from States, or authorities designated by 1 or more States, for financial assistance authorized by subsection (b)(1)(B) for planning, design, and construction of eligible MAGLEV projects.

''(d) PROJECT ELIGIBILITY.—To be eligible to receive financial assistance under subsection (b)(1)(B), a project shall—

''(1) involve a segment or segments of a high-speed ground transportation corridor that—

''(A) exhibits partnership potential; or

''(B) is a portion of a recognized pilot project;

''(2) require an amount of Federal funds for project financing that will not exceed—

''(A) the amounts made available under subsection (j)(1)(A); and

''(B) the amounts made available by States under subsection (j)(4);

''(3) result in an operating transportation facility that provides a revenue producing service;

''(4) be undertaken through a public and private partnership, with at least ⅓ of full project costs paid using non-Federal funds;

''(5) to the maximum extent practicable (as determined by the Secretary), satisfy applicable Statewide and metropolitan planning requirements;

''(6) be approved by the Secretary based on an application submitted to the Secretary by a State or authority designated by 1 or more States;

''(7) to the extent non-United States MAGLEV technology is used within the United States, be carried out as a technology transfer project; and

''(8) be carried out using materials at least 70 percent of which are manufactured in the United States.

''(e) PROJECT SELECTION CRITERIA.—Prior to soliciting applications, the Secretary shall establish criteria for selecting which eligible projects under subsection (d) will receive financial assistance under subsection (b)(1)(B). The criteria shall include the extent to which—

''(1) a project is nationally significant, including the extent to which the project will demonstrate the feasibility of deployment of MAGLEV technology throughout the United States;

''(2) timely implementation of the project will reduce congestion in other modes of transportation and reduce the need for additional highway or airport construction;

''(3) States, regions, and localities financially contribute to the project;

''(4) implementation of the project will create new jobs in traditional and emerging industries;

''(5) the project will augment MAGLEV networks identified as having partnership potential;

''(6) financial assistance would foster public and private partnerships for infrastructure development and attract private debt or equity investment;

''(7) financial assistance would foster the timely implementation of a project; and

''(8) life-cycle costs in design and engineering are considered and enhanced.

''(f) PROJECT SELECTION.—Not later than 90 days after a deadline established by the Secretary for the receipt of applications, the Secretary shall evaluate the eligible projects in accordance with the selection criteria and select 1 or more eligible projects for financial assistance.

''(g) JOINT VENTURES.—A project undertaken by a joint venture of United States and non-United States persons (including a project involving the deployment of non-United States MAGLEV technology in the United States) shall be eligible for financial

assistance under this section if the project is eligible under subsection (d) and selected under subsection (f).

''(h) RESEARCH GRANTS AND CONTRACTS.—The Secretary shall conduct research that shall include providing grants to, and entering into contracts with, colleges, universities, research institutes, Federal laboratories, and private entities for research related to—

''(1) the quantification of benefits derived from the implementation of MAGLEV technology;

''(2) MAGLEV safety;

''(3) the development of domestic MAGLEV technologies, including electromagnetic and superconducting technology; and

''(4) the development of technologies associated with MAGLEV infrastructure.

''(i) REPORT.—Not later than 180 days after the date of enactment of the Magnetic Levitation (MAGLEV) Transportation Technology Deployment Act of 1997, the Secretary shall submit a report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on progress in implementing this section that includes a report on—

''(1) the establishment of the High-Speed Ground Transportation Office under subsection (b);

''(2) applications for assistance under this section; and

''(3) the establishment of public and private partnerships to carry out this section.

''(j) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to—

''(A) carry out this section (other than subsection (h)), $10,000,000 for fiscal year 1998, $20,000,000 for fiscal year 1999, $200,000,000 for each of fiscal years 2000 and 2001, and $250,000,000 for each of fiscal years 2002 and 2003; and

''(B) provide research grants and contracts under subsection (h), $10,000,000 for each of fiscal years 1998 through 2003.

''(2) AVAILABILITY OF FUNDS.—Funds made available under paragraph (1) shall remain available until expended.

''(3) CONTRACT AUTHORITY.—Approval by the Secretary of an eligible project selected under this section shall be considered to be a contractual obligation of the United States for payment of the Federal share of the full project costs of the project.

''(4) OTHER FEDERAL FUNDS.—Notwithstanding any other provision of law, funds made available to a State to carry out the surface transportation program under section 133 and the congestion mitigation and air quality improvement program under section 149 may be used by the State to pay a portion of the full project costs of an eligible project selected under this section, without requirement for non-Federal funds.

''(5) OTHER ASSISTANCE.—Notwithstanding any other provision of law, an eligible project selected under this section shall be eligible for the loans, loan guarantees, lines of credit, development cost and political risk insurance, credit enhancement, and risk insurance that are authorized for a highway project under this title.

''(6) TAX-EXEMPT BOND FINANCING.—For the purpose of obtaining tax-exempt bond financing under the Internal Revenue Code of 1986, a MAGLEV facility shall be considered to be a high-speed intercity rail facility with an average speed greater than 150 miles per hour under section 142(a)(11) of that Code.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by inserting after the item relating to section 321 the following:

''322. Magnetic levitation transportation technology deployment program.''.

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MAGNETIC LEVITATION (MAGLEV) TRANSPORTATION TECHNOLOGY DEPLOYMENT ACT OF 1997—SECTION-BY-SECTION ANALYSIS

*Sec. 1 Short Title*

This section designates this bill as the ''Magnetic Levitation (MAGLEV) Transportation Technology Deployment Act of 1997.''

*Sec. 2 Findings and Policy*

Sub-section (a) makes several findings concerning the need for a new mode of transportation that is environmentally sound and energy efficient and describes how magnetic levitation can meet that need with a demonstrated safe and cost-effective technology.

Based upon the above findings, sub-section (b) declares that it is the policy of the United States to establish a MAGLEV transportation technology system as part of our national transportation system.

*Sec. 3 Magnetic Levitation Transportation Technology Deployment Program*

Sub-section (a) amends Chapter 3 of Title 23, U.S.C. to add a new ''Section 322. Magnetic Levitation transportation technology deployment program.''

Sub-section (a) of the new Section 322 provides definitions for several terms subsequently used in the legislative language.

Paragraph (b)(1) of the new Section 322 requires The Secretary of Transportation to establish a High-Speed Ground Transportation Office in the Federal Railroad Administration to coordinate and administer all high-speed rail and MAGLEV programs and make available Federal funds authorized by this section for selected MAGLEV projects.

Paragraph (b)(2) specifies that the Federal share of costs of selected projects shall not exceed ⅔ of the full project costs which include: guideway, stations, vehicles and appurtenant facilities and equipment.

Paragraph (b)(3) specifies that the Federal funds authorized by this legislation may only be used to pay the capital costs of the fixed guideway infrastructure of a MAGLEV project.

Sub-section (c) requires the Secretary to solicit applications from states or authorities designated by one or more states for financial assistance in the planning, design and construction of an eligible MAGLEV project.

Sub-section (d) defines project eligibility, and requires eligible projects to, among other requirements:

Involve a segment or segments of a longer high speed ground transportation corridor that exhibits partnership potential (i.e. can be shown that once built, can be operated by private enterprise as a self sustaining entity.) or is a portion of a recognized pilot project identified in a report to Congress mandated by Section 359(d) of the National Highway System Designation Act of 1995;

Not require more Federal assistance than the amount authorized by this legislation plus any additional amounts of Federal-aid highway apportionment which are made available by the states; and

Results in an operating transportation facility that provides revenue producing service.

Sub-section (e) requires the Secretary to establish criteria for selection of eligible projects and provides a list of criteria to be included.

Sub-section (f) requires the Secretary to establish a deadline for receipt of applications and provides 90 days for the Secretary to evaluate the applications and select one or more projects for financial assistance.

Sub-section (g) allows joint ventures composed of U.S. and non-U.S. persons to be eligible for financial assistance.

Sub-section (h) requires the Secretary to carry out additional research and provides authority to enter into research contracts with a variety of public and private businesses, institutions and laboratories.

Sub-section (i) requires a report to the Senate Committee on Environment and Public Works and the House Committee on Transportation and Infrastructure within 180 days on the progress made in implementing the legislation.

Paragraph (j)(1) authorizes $930,000,000 from the Highway Trust Fund (other than the Mass Transit Account) over six years to provide the Federal share of the cost of design and construction of one or more MAGLEV projects selected by the Secretary. It also provides $10,000,000 annually for authorized research activities.

Paragraph (j)(2) and (3) keep the authorized amounts available until expended and provide contract authority.

Paragraph (j)(4) permits any state to use a portion of Federal highway funds apportioned to the state for the Surface Transportation Program (STP) and the Congestion Mitigation Air Quality Program (CMAQ) to pay a portion of the full project costs.

Paragraph (j)(5) makes selected projects eligible for any innovative financing techniques provided for Federal-aid highway projects under title 23, U.S.C.

Paragraph (j)(6) of the new Section 322 makes selected MAGLEV projects eligible for tax-exempt bond financing.

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By Mr. HOLLINGS (for himself and Ms. SNOWE):

S. 1104. A bill to direct the Secretary of the Interior to make corrections in maps relating to the Coastal Barrier Resources System; to the Committee on Environment and Public Works.

CORRECTING THE COASTAL BARRIER RESOURCES SYSTEM LEGISLATION

Mr. HOLLINGS. Mr. President, I rise today to introduce a bill aimed at correcting a mistake in the Coastal Barrier Resource System. Without this correction, a portion of Colleton County, SC, will remain in the Coastal Barrier Resources System even though the county never had an opportunity to voice their objection to their inclusion.

In 1980 Congress directed the Secretary of the Interior to study and propose a Coastal Barrier Resources System. The aim was to create a system made up of relatively undeveloped lowlying coastal lands which, because of their susceptibility to flooding, would not be eligible for Federal flood insurance. Practically speaking, to be included in the CBRS means you face serious obstacles when selling or developing your property.

Soon after the passage of the 1980 act, the Department of the Interior created a study group charged which promulgating an inventory of coastal properties—properties to be included in the CBRS. By the end of 1988, the study group had completed its work and the Department of the Interior submitted the CBRS proposal to Congress.

This proposed inventory was the culmination of 8 years work and included suggestions made during two public comment periods. The first public comments were made following the release of an initial draft inventory in 1985. Additional comments were made following the release of a second draft in

the spring of 1987. The Department of the Interior received numerous comments on these draft inventories and incorporated many in their final report to Congress. This final report was the basis for the Coastal Barrier Resources System adopted in 1990.

I recite this history because without an understanding of it, Mr. President, one can't understand the intent of my legislation.

While the Department of the Interior was drafting this proposed system, a strip of coastal South Carolina was being annexed by Colleton County from Charleston County. Unfortunately, this annexation occurred in 1987 in the midst of the 1987 CBRA comment period. Unfortunately, the notice of this second draft inventory was not received by Colleton County. The county never received any notice. It appears the draft inventory was provided to Charleston County, not Colleton County. In fact, the maps currently on file at the Department of the Interior, still, incorrectly show this tract in Charleston County—not Colleton County. Thus, the citizens of Colleton County, never having had an opportunity to comment on these proposed changes, now find this tract included in the CBRS.

I proposed legislation in 1995 to correct this mistake, but it was never reported out of committee. It failed to win the Environment and Public Works Committee's support because the Fish and Wildlife Service, at the time, felt that the area in question had been mapped properly.

Mr. President, since the end of the 104th Congress, I have been working with the Fish and Wildlife Service to address this problem. They have now reevaluated this area and have come to the conclusion, ''that the unprecedented procedural circumstances in this situation raise concerns of equity and fairness that warrant remapping.'' Mr. President, I ask unanimous consent to include in the RECORD a letter from John Rogers, Acting Director of the U.S. Fish and Wildlife Service, dated May 1, 1997, that says just that.

In short, this bill corrects a mistake made 10 years ago. It rights a wrong. It does not drastically redraft the Coastal Barrier Resources System nor does it withdraw any lands which were included in the 1982 draft. It is narrowly drafted to address Colleton County's unique situation. My staff, working with the Fish and Wildlife Service, has not identified another area in the system which is similarly situated. That is, there are no other areas which changed jurisdictions at the time the Coastal Barrier Resources System boundaries were being developed and which never received notice of these changes, thus this bill would not prove a precedent for those seeking wholesale changes in the Coastal Barrier Resources System.

In conclusion, the bill simply returns a small portion of Edisto Island, SC to its 1982 status. I urge my colleagues to support this bill.

Ms. SNOWE. Mr. President, I am pleased to join the ranking member of the Commerce Committee, Senator HOLLINGS, in the introduction of the Oceans Act of 1997. This bill will establish a commission like the Stratton Commission of 1966 to review the many ocean and coastal issues facing the United States, and to develop a comprehensive, coordinated, national ocean, and coastal policy.

Prior to introduction, I raised a few concerns with Senator HOLLINGS on some provisions of the draft bill. Basically, I had recommended some language that made it clear that as we develop a new ocean and coastal policy for the Nation, we keep in mind the facts that our fiscal resources are limited, and that our Federal investments in ocean and coastal resources must be spent efficiently and wisely. I also raised some concerns about the fact that the original draft had the President appointing all of the members of this important commission.

Mr. President, Senator HOLLINGS has graciously agreed to make some changes to the bill pursuant to my recommendations. For instance, the bill now authorizes the Congress to appoint more than half of the Commission members, and the Commission is directed to identify opportunities to reform Federal ocean programs to improve efficiency and effectiveness. I commend Senator HOLLINGS for his willingness to work with me and other Republican Senators before introduction of the bill. After introduction, I look forward to working with the distinguished Senator from South Carolina, a Senator who worked on the original Stratton Commission bill 30 years ago and who is a true champion of ocean protection, in the Oceans and Fisheries Subcommittee on any further refinements along these lines that might be constructive.

Again, I thank Senator HOLLINGS and commend him upon introduction of this bill.

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By Mr. COCHRAN (for himself and Mr. CONRAD):

S. 1105. A bill to amend the Internal Revenue Code of 1986 to provide a sound budgetary mechanism for financing health and death benefits of retired coal miners while ensuring the long-term fiscal health and solvency of such benefits, and for other purposes; to the Committee on Finance.

THE COMPREHENSIVE COAL ACT REFORM ACT

Mr. COCHRAN. Mr. President, today I am introducing legislation which will correct the abuses of Federal tax policy associated with the Reachback Tax provisions of the Coal Industry Health Benefit Act of 1992 (the Coal Act), while guaranteeing the solvency of the Combined Benefit Fund established by that Act.

The legislation will also guarantee retiree health care benefits to approximately 75,000 retired unionized bituminous coal miners, their spouses or widows, and dependents. These coal mine retirees have received uninterrupted health care benefits which are among the best available to any group of retirees.

The Coal Act also bestowed a windfall on one class of companies at the expense of another class, by shifting 62 percent of the cost of these retiree health benefits from the companies which had contracted to pay for them. Those costs are now shouldered by Federal transfers and private employers, who had no contractual obligation for retiree health care.

Since its passage as part of the National Energy Policy Act, the Coal Act has been the subject of debate in both houses of Congress and tens of millions of dollars has been spent on litigation filed in the Federal courts by companies subjected to its retroactive taxation. Every case has been lost, however, as the courts have ruled that Congress has the power to tax and that it is up to Congress to make or change tax law.

Mr. President, this confiscatory measure is called the Reachback Tax, because it reached back, over the decades and branded for taxation hundreds of companies, or their former owners. Many of those companies had been out of the unionized coal business for decades. Many identified by the Social Security Administration as liable for Reachback Taxes, are nothing more than skeletons of business entities holding the dwindling assets of former small enterprises.

Some reachback companies were taxed because they, or a related party, had signed a UMWA multi-employer contract sometime between 1950 and 1988. When the contracts expired, however, each of the reachback companies had fulfilled its obligations to the union and the union members. There were no continuing ties between the reachback companies and former employees, and certainly no promises of lifetime benefits to those former employees, much less their dependents. Furthermore, the union had no claims pending against these companies for retiree health care.

Mr. President, the Reachback Tax, passed without benefit of hearings or debate, has brought economic disaster to hundreds of innocent American companies, and hardship for tens of thousands of their workers. It has caused a favored class of companies to receive what they admit is a $130 million annual savings in retiree health benefit costs, and transferred that burden to companies—small and large in more than 30 States.

The payment of this Federal tax is an unfair burden on all of the reachback companies. For every beneficiary assigned, the reachback companies have a liability of approximately $2,400 per year, stretching to the year 2043. No reachback company was prepared to absorb such an expense, nor should it have been. Obviously, jobs have been lost and job-creating projects have been delayed or canceled, and new

products and the opening of new markets have been sidetracked because of the Reachback Tax.

When the 102d Congress passed the Reachback Tax in the fall of 1992, it handed the UMWA Combined Fund Trustees the statutory responsibility to collect every cent of every premium due from every reachback company. It also conferred on the Department of Treasury and the Internal Revenue Service the statutory responsibility to impose $100 per day, per beneficiary penalties on every reachback company which does not pay those premiums. Furthermore, the Department of Treasury's Office of Tax Policy reports nonpaying reachback companies are liable for billions of dollars in penalties.

Mr. President, billions of dollars are due the United States Treasury, yet the Treasury and IRS have not moved to collect these penalties. And, despite this financial threat, some 60 percent of all the reachback companies have ignored their statements, unwilling or unable to comply with a Federal law they view as unjust.

Mr. President, the Reachback Tax was promoted during the conference on the Energy Act as an emergency effort to avoid an advertised deficit in the UMWA health benefits fund, and as necessary to save the retirees from an imminent suspension of health care benefits. However, the deficit never materialized. Instead, the General Accounting Office, the private firms Towers Perrin, Deloitte & Touche, and the UMWA Combined Benefit Fund trustees have confirmed a huge surplus in the fund.

The legislation I am introducing today will statutorily guarantee that those surpluses continue through the life of the fund, as several new and permanent cost containment measures by the fund managers have dramatically lowered its expenses below original projections. Furthermore, the number of beneficiaries in the closed pool continues to decline because of mortality.

Statutory relief is the only relief available to these reachback companies. It is needed immediately. I urge Senators to join in support of this legislation to mitigate an unintended impact of well-intended legislation.

Mr. CONRAD. Mr. President, I am pleased to join Senator COCHRAN in sponsoring this reachback tax relief bill to alleviate the inequitable hardships the Coal Industry Retiree Health Benefits Act of 1992 imposed on certain companies.

First, it is important to note that the Coal Act of 1992 assured coal miners and their dependents that their health benefits were permanently secured. And, it provided a statutory foundation to implement that commitment. This legislation continues that commitment and maintains the legal foundation to carry it out.

However, the funding mechanism of the Act has produced severe financial hardship for many companies subject to it. Our legislation reforms the Coal Act to eliminate this very serious and growing problem. In order to fund the 1992 Coal Act, reachback companies, many long removed from deep coal mining, were subjected to a burdensome tax that in many cases threatens their existence. Many companies are no longer in the coal business, and long ago withdrew from the Bituminous Coal Operators Association [BCOA] having met their legal obligations to fund retiree health benefits. It is the BCOA that negotiated a series of collective bargaining agreements with their employees and at the urging of the BCOA, the final contract contribution formula did not fully fund the benefits. The solution to this funding shortfall came down to asking others to help pay, even those who had long ago left the coal business.

We have now reached a point where reform is essential. As much as $16 billion in penalties have accumulated against companies for delinquent premiums. Some of the reachback companies are trying to pay by depleting their assets and thereby jeopardizing their ability to survive economically. Other companies simply cannot afford to pay. The Combined Benefit Fund trustees are currently suing delinquent companies to collect all unpaid premiums. These liabilities threaten the existence of many small companies and the jobs of the people employed by them. It is increasingly clear that this is a symptom of the serious shortcomings in the original legislation. These reachback companies deserve fairer treatment than the Coal Act now provides. Just as important, coal miners and their dependents deserve a Coal Act that will work in the long-run.

To make matters worse, a recent federal court decision has had the adverse effect of reducing the Combined Fund revenues by ten percent and thus threatening the solvency of the Fund. If the decision is left standing, a shortfall is projected by the year 2002. We must act now to preserve the solvency of the miners' fund as well as provide the urgently needed reachback relief. This legislation reverses the court's decision and increases BCOA premiums, to preserve the long term solvency of the Fund and provide a modest level of reachback relief. Following are key reform elements in our legislation:

(1) Eliminates premiums for certain reachback companies and significantly reduces premiums for other reachbacks;

(2) Creates a cap on all small company premiums;

(3) Creates relief for companies who paid withdrawal fees; and

(4) Strengthens the fiscal integrity of the miners' fund by overturning the court decision and increasing BCOA premiums.

The passage of the Coal Act in 1992 has saved the coal producing members of the BCOA more than $130 million per year over their prior annual benefit payment liabilities. The BCOA companies' $130 million annual windfall will need to be reduced in order to provide fiscal relief to the many reachback companies. When this comprehensive bill becomes law, BCOA companies will still benefit from about $100 million in annual savings.

Mr. President, the problems being caused by the Reachback Tax are severe and require a remedy. Congress should act now to reform the Coal Act in order to provide equitable relief for all reachback companies as well as to permanently secure the miners' benefits. We should pass the Comprehensive Coal Act Reform proposal now.

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By Mr. COATS:

S. 1106. A bill to provide for the establishment of demonstration projects designed to determine the social, civic, psychological, and economic effects of providing to individuals and families with limited means an opportunity to accumulate assets, and to determine the extent to which an asset-based policy may be used to enable individuals and families with limited means to achieve economic self-sufficiency; to the Committee on Finance.

THE ASSETS OF INDEPENDENCE ACT

Mr. COATS. Mr. President, I am pleased to introduce for Independence Act, bipartisan legislation designed to help poor and working-poor Americans build the productive assets they need to get out of poverty and invest in their future.

Just as people can't borrow their way out of debt, they can't spend their way out of poverty. To move forward, America's struggling families need assets. For assets are ''hope in concrete form.'' While our Nation has wisely recognized this fact for our middle- and upper-income families by subsidizing, through the Tax Code, the acquisition of homes and retirement accounts, we have not extended these very sensible policies to our lower-income citizens. In fact, they are often penalized if they try to save.

My legislation will change that, and set them on a path to economic independence. And, by increasing our national savings rate, it will help set America on a path to greater productivity and prosperity. I truly believe that IDA's can be to the 21st century what the Homestead Act was to the 19th and what the GI Bill was to the 20th—an investment in the common genius of the American people. The truth, Mr. President, is that we have spent billions on the poor, but we have rarely invested in them. And I say emphatically that IDA's are not a give-away—they are an investment.

The Assets for Independence Act authorizes the Department of Health and Human Services to establish community-based Individual Development Account [IDA] programs throughout the country. IDA's are matched savings accounts that can be used by low-income people to acquire a first home, a small business or post-secondary education or training. To help the poor save and to encourage work, their earned income would be matched by federal,

non-federal, and private dollars. All payments would go directly to the third-party vendors (for example, directly to the mortgage company for people using their IDA to buy their first home) and, like IRA's, there would be harsh penalties for misuse. Community-based non-profit organizations would have to compete and raise money to be an IDA demonstration site. The legislation authorizes $25 million a year for 4 years for the demonstration.

Mr. President, IDA's are not new to America. In fact, they're spreading rapidly; in part as a result of legislation I proposed, and the Congress passed, last year in connection with the welfare reform bill.

Over 40 private, community-based IDA's programs are operating around the country. I am pleased to say that one of the oldest and most successful IDA programs in the country, at Eastside Community Investments, is located in Indianapolis.

Fourteen States have already included IDA's in their State welfare reform plans, as permitted by the passage of last year's legislation.

Twenty States have sponsored their own IDA programs, some through refundable tax credits, others through direct appropriation. For example, Pennsylvania has allocated $1.25 million for IDA's through a ''Family Savings Accounts'' program for low-income families.

Over 200 community-based groups in 43 States signified their intention to develop IDA's in response to a large, privately-funded IDA demonstration, slated to begin later this summer.

When I talk about IDA's, people often say to me that the poor cannot save. Well they're wrong. The poor can and do save. As of 1995, some 171,000 low-income families saved more than $250 million through community development credit unions in many of America's poorest neighborhoods. Also, I believe that the savings rate of the poor will rise tremendously once we start supporting saving, both institutionally and culturally. And finally, I doubt that all this IDA activity in the country would be going on—all the millions of dollars being committed by major foundations, corporations, and States to IDA's—if there wasn't a core belief in the ability and willingness of the poor to save for long-term, productive assets.

In closing, Mr. President, I would strongly encourage my colleagues to cosponsor this legislation. Just as the private sector and several State have invested in America's poor through IDA's, we—the Federal Government should invest too. Our commitment to IDA's could leverage millions more in private and State contributions—and thereby help move millions of hard-working low-income families from poverty to economic independence.

I ask unanimous consent that the text of the bill as introduced be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1106

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the ''Assets for Independence Act''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:



**SEC. 2. FINDINGS.**

Congress makes the following findings:

(1) Economic well-being does not come solely from income, spending, and consumption, but also requires savings, investment, and accumulation of assets because assets can improve economic independence and stability, connect individuals with a viable and hopeful future, stimulate development of human and other capital, and enhance the welfare of offspring.

(2) Fully ½ of all Americans have either no, negligible, or negative assets available for investment, just as the price of entry to the economic mainstream, the cost of a house, an adequate education, and starting a business, is increasing. Further, the household savings rate of the United States lags far behind other industrial nations presenting a barrier to economic growth.

(3) In the current tight fiscal environment, the United States should invest existing resources in high-yield initiatives. There is reason to believe that the financial returns, including increased income, tax revenue, and decreased welfare cash assistance, resulting from individual development accounts will far exceed the cost of investment in those accounts.

(4) Traditional public assistance programs concentrating on income and consumption have rarely been successful in promoting and supporting the transition to increased economic self-sufficiency. Income-based domestic policy should be complemented with asset-based policy because, while income-based policies ensure that consumption needs (including food, child care, rent, clothing, and health care) are met, asset-based policies provide the means to achieve greater independence and economic well-being.

**SEC. 3. PURPOSES.**

The purposes of this Act are to provide for the establishment of demonstration projects designed to determine—

(1) the social, civic, psychological, and economic effects of providing to individuals and families with limited means an incentive to accumulate assets by saving a portion of their earned income;

(2) the extent to which an asset-based policy that promotes saving for education, homeownership, and microenterprise development may be used to enable individuals and families with limited means to increase their economic self-sufficiency; and

(3) the extent to which an asset-based policy stabilizes and improves families and the community in which they live.

**SEC. 4. DEFINITIONS.**

In this Act:

(1) APPLICABLE PERIOD.—The term ''applicable period'' means, with respect to amounts to be paid from a grant made for a project year, the calendar year immediately preceding the calendar year in which the grant is made.

(2) ELIGIBLE INDIVIDUAL.—The term ''eligible individual'' means an individual who is selected to participate by a qualified entity under section 9 of this Act.

(3) HOUSEHOLD.—The term ''household'' means all individuals who share use of a dwelling unit as primary quarters for living and eating separate from other individuals.

(4) INDIVIDUAL DEVELOPMENT ACCOUNT.—

(A) IN GENERAL.—The term ''individual development account'' means a trust created or organized in the United States exclusively for the purpose of paying the qualified expenses of an eligible individual, but only if the written governing instrument creating the trust meets the following requirements:

(i) No contribution will be accepted unless it is in cash or by check.

(ii) The trustee is a federally insured financial institution.

(iii) The assets of the trust will be invested in accordance with the direction of the eligible individual after consultation with the qualified entity providing deposits for the individual under section 10 of this Act.

(iv) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

(v) Except as provided in clause (vi), any amount in the trust which is attributable to a deposit provided under section 10 of this Act may be paid or distributed out of the trust only for the purpose of paying the qualified expenses of the eligible individual.

(vi) Any balance in the trust on the day after the date on which the individual for whose benefit the trust is established dies shall be distributed within 30 days of that date as directed by that individual to another individual development account established for the benefit of an eligible individual.

(B) CUSTODIAL ACCOUNTS.—For purposes of subparagraph (A), a custodial account shall be treated as a trust if the assets of the custodial account are held by a bank (as defined in section 408(n) of the Internal Revenue Code of 1986) or another person who demonstrates, to the satisfaction of the Secretary, that the manner in which such person will administer the custodial account will be consistent with the requirements of this Act, and if the custodial account would, except for the fact that it is not a trust, constitute an individual development account described in subparagraph (A). For purposes of this Act, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of that custodial account shall be treated as the trustee thereof.

(5) NON-FEDERAL PUBLIC SECTOR FUNDS.—The term ''non-Federal public sector funds'' includes any non-Federal funds disbursed from a source pursuant to a program operated under the temporary assistance for needy families program under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

(6) PROJECT YEAR.—The term ''project year'' means, with respect to a demonstration project, any of the 4 consecutive 12-

month periods beginning on the date the project is originally authorized to be conducted.

(7) QUALIFIED ENTITY.—

(A) IN GENERAL.—The term ''qualified entity'' means—

(i) one or more not-for-profit organizations described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code; or

(ii) a State or local government agency submitting an application under section 5 jointly with an organization described in clause (i).

(B) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as preventing an organization described in subparagraph (A)(i) from collaborating with a financial institution or for-profit community development corporation to carry out the purposes of this Act.

(8) QUALIFIED EXPENSES.—The term ''qualified expenses'' means 1 or more of the following, as provided by the qualified entity:

(A) POSTSECONDARY EDUCATIONAL EXPENSES.—Postsecondary educational expenses paid from an individual development account directly to an eligible educational institution. In this subparagraph:

(i) POST-SECONDARY EDUCATIONAL EXPENSES.—The term ''post-secondary educational expenses'' means the following:

(I) TUITION AND FEES.—Tuition and fees required for the enrollment or attendance of a student at an eligible educational institution.

(II) FEES, BOOKS, SUPPLIES, AND EQUIPMENT.—Fees, books, supplies, and equipment required for courses of instruction at an eligible educational institution.

(ii) ELIGIBLE EDUCATIONAL INSTITUTION.—The term ''eligible educational institution'' means the following:

(I) INSTITUTION OF HIGHER EDUCATION.—An institution described in section 481(a)(1) or 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)(1) or 1141(a)), as such sections are in effect on the date of enactment of this Act.

(II) POSTSECONDARY VOCATIONAL EDUCATION SCHOOL.—An area vocational education school (as defined in subparagraph (C) or (D) of section 521(4) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4))) which is in any State (as defined in section 521(33) of such Act), as such sections are in effect on the date of enactment of this Act.

(B) FIRST-HOME PURCHASE.—Qualified acquisition costs with respect to a qualified principal residence for a qualified first-time homebuyer, if paid from an individual development account directly to the persons to whom the amounts are due. In this subparagraph:

(i) QUALIFIED ACQUISITION COSTS.—The term ''qualified acquisition costs'' means the costs of acquiring, constructing, or reconstructing a residence. The term includes any usual or reasonable settlement, financing, or other closing costs.

(ii) QUALIFIED PRINCIPAL RESIDENCE.—The term ''qualified principal residence'' means a principal residence (within the meaning of section 1034 of the Internal Revenue Code of 1986), the qualified acquisition costs of which do not exceed 100 percent of the average area purchase price applicable to such residence (determined in accordance with paragraphs (2) and (3) of section 143(e) of such Code).

(iii) QUALIFIED FIRST-TIME HOMEBUYER.—

(I) IN GENERAL.—The term ''qualified first-time homebuyer'' means an individual participating in the project (and, if married, the individual's spouse) who has no present ownership interest in a principal residence during the 3-year period ending on the date of acquisition of the principal residence to which this subparagraph applies.

(II) DATE OF ACQUISITION.—The term ''date of acquisition'' means the date on which a binding contract to acquire, construct, or reconstruct the principal residence to which this subparagraph applies is entered into.

(C) BUSINESS CAPITALIZATION.—Amounts paid from an individual development account directly to a business capitalization account which is established in a federally insured financial institution and is restricted to use solely for qualified business capitalization expenses. In this subparagraph:

(i) QUALIFIED BUSINESS CAPITALIZATION EXPENSES.—The term ''qualified business capitalization expenses'' means qualified expenditures for the capitalization of a qualified business pursuant to a qualified plan.

(ii) QUALIFIED EXPENDITURES.—The term ''qualified expenditures'' means expenditures included in a qualified plan, including capital, plant, equipment, working capital, and inventory expenses.

(iii) QUALIFIED BUSINESS.—The term ''qualified business'' means any business that does not contravene any law or public policy (as determined by the Secretary).

(iv) QUALIFIED PLAN.—The term ''qualified plan'' means a business plan, or a plan to use a business asset purchased, which—

(I) is approved by a financial institution, a microenterprise development organization, or a nonprofit loan fund having demonstrated fiduciary integrity;

(II) includes a description of services or goods to be sold, a marketing plan, and projected financial statements; and

(III) may require the eligible individual to obtain the assistance of an experienced entrepreneurial adviser.

(D) TRANSFERS TO IDAS OF FAMILY MEMBERS.—Amounts paid from an individual development account directly into another such account established for the benefit of an eligible individual who is—

(i) the individual's spouse; or

(ii) any dependent of the individual with respect to whom the individual is allowed a deduction under section 151 of the Internal Revenue Code of 1986.

(9) QUALIFIED SAVINGS OF THE INDIVIDUAL FOR THE PERIOD.—The term ''qualified savings of the individual for the period'' means the aggregate of the amounts contributed by the individual to the individual development account of the individual during the period.

(10) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

**SEC. 5. APPLICATIONS.**

(a) SUBMISSION.—Not later than 6 months after the date of enactment of this Act, a qualified entity may submit to the Secretary an application to conduct a demonstration project under this Act.

(b) CRITERIA.—In considering whether to approve an application to conduct a demonstration project under this Act, the Secretary shall assess the following:

(1) SUFFICIENCY OF PROJECT.—The degree to which the project described in the application appears likely to aid project participants in achieving economic self-sufficiency through activities requiring qualified expenses. In making such assessment, the Secretary shall consider the overall quality of project activities in making any particular kind or combination of qualified expenses to be an essential feature of any project.

(2) ADMINISTRATIVE ABILITY.—The experience and ability of the applicant to responsibly administer the project.

(3) ABILITY TO ASSIST PARTICIPANTS.—The experience and ability of the applicant in recruiting, educating, and assisting project participants to increase their economic independence and general well-being through the development of assets.

(4) COMMITMENT OF NON-FEDERAL FUNDS.—The aggregate amount of direct funds from non-Federal public sector and from private sources that are formally committed to the project as matching contributions.

(5) ADEQUACY OF PLAN FOR PROVIDING INFORMATION FOR EVALUATION.—The adequacy of the plan for providing information relevant to an evaluation of the project.

(6) OTHER FACTORS.—Such other factors relevant to the purposes of this Act as the Secretary may specify.

(c) PREFERENCES.—In considering an application to conduct a demonstration project under this Act, the Secretary shall give preference to an application that—

(1) demonstrates the willingness and ability to select individuals described in section 8 who are predominantly from households in which a child (or children) is living with the child's biological or adoptive mother or father, or with the child's legal guardian;

(2) provides a commitment of non-Federal funds with a proportionately greater amount of such funds committed by private sector sources; and

(3) targets such individuals residing within 1 or more relatively well-defined neighborhoods or communities (including rural communities) that experience low rates of income or employment.

(d) APPROVAL.—Not later than 9 months after the date of enactment of this Act, the Secretary shall, on a competitive basis, approve such applications to conduct demonstration projects under this Act as the Secretary deems appropriate, taking into account the assessments required by subsections (b) and (c). The Secretary is encouraged to ensure that the applications that are approved involve a range of communities (both rural and urban) and diverse populations.

(e) CONTRACTS WITH NONPROFIT ENTITIES.—The Secretary may contract with an entity described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code to conduct any responsibility of the Secretary under this section or section 12 if—

(1) such entity demonstrates the ability to conduct such responsibility; and

(2) the Secretary can demonstrate that such responsibility would not be conducted by the Secretary at a lower cost.

**SEC. 6. DEMONSTRATION AUTHORITY; ANNUAL GRANTS.**

(a) DEMONSTRATION AUTHORITY.—If the Secretary approves an application to conduct a demonstration project under this Act, the Secretary shall, not later than 10 months after the date of enactment of this Act, authorize the applicant to conduct the project for 4 project years in accordance with the approved application and the requirements of this Act.

(b) GRANT AUTHORITY.—For each project year of a demonstration project conducted under this Act, the Secretary shall make a grant to the qualified entity authorized to conduct the project on the first day of the project year in an amount not to exceed the lesser of—

(1) the aggregate amount of funds committed as matching contributions by non-Federal public or private sector sources; or

(2) $1,000,000.

**SEC. 7. RESERVE FUND.**

(a) ESTABLISHMENT.—A qualified entity under this Act, other than a State or local government agency, shall establish a Reserve Fund which shall be maintained in accordance with this section.

(b) AMOUNTS IN RESERVE FUND.—

(1) IN GENERAL.—As soon after receipt as is practicable, a qualified entity shall deposit

in the Reserve Fund established under subsection (a)—

(A) all funds provided to the qualified entity by any public or private source in connection with the demonstration project; and

(B) the proceeds from any investment made under subsection (c)(2).

(2) UNIFORM ACCOUNTING REGULATIONS.—The Secretary shall prescribe regulations with respect to accounting for amounts in the Reserve Fund established under subsection (a).

(c) USE OF AMOUNTS IN THE RESERVE FUND.—

(1) IN GENERAL.—A qualified entity shall use the amounts in the Reserve Fund established under subsection (a) to—

(A) assist participants in the demonstration project in obtaining the skills (including economic literacy, budgeting, credit, and counseling) and information necessary to achieve economic self-sufficiency through activities requiring qualified expenses;

(B) provide deposits in accordance with section 10 for individuals selected by the qualified entity to participate in the demonstration project;

(C) administer the demonstration project; and

(D) provide the research organization evaluating the demonstration project under section 14 with such information with respect to the demonstration project as may be required for the evaluation.

(2) AUTHORITY TO INVEST FUNDS.—

(A) GUIDELINES.—The Secretary shall establish guidelines for investing amounts in the Reserve Fund established under subsection (a) in a manner that provides an appropriate balance between return, liquidity, and risk.

(B) INVESTMENT.—A qualified entity shall invest the amounts in its Reserve Fund that are not immediately needed to carry out the provisions of paragraph (1), in accordance with the guidelines established under subparagraph (A).

(3) LIMITATION ON USES.—Not more than 7.5 percent of the amounts provided to a qualified entity under section 6(b) shall be used by the qualified entity for the purposes described in subparagraphs (A), (C), and (D) of paragraph (1), except that if 2 or more qualified entities are jointly administering a project, no qualified entity shall use more than its proportional share for such purposes.

(d) UNUSED FEDERAL GRANT FUNDS TRANSFERRED TO THE SECRETARY WHEN PROJECT TERMINATES.—Notwithstanding subsection (c), upon the termination of any demonstration project authorized under this section, the qualified entity conducting the project shall transfer to the Secretary an amount equal to—

(1) the amounts in its Reserve Fund at time of the termination; multiplied by

(2) a percentage equal to—

(A) the aggregate amount of grants made to the qualified entity under section 6(b); divided by

(B) the aggregate amount of all funds provided to the qualified entity by all sources to conduct the project.

**SEC. 8. ELIGIBILITY FOR PARTICIPATION.**

(a) IN GENERAL.—Any individual who is a member of a household that is eligible for assistance under the State temporary assistance for needy families program established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), or that meets the following requirements shall be eligible to participate in a demonstration project conducted under this Act:

(1) INCOME TEST.—The adjusted gross income of the household does not exceed the income limits established under section 32(b)(2) of the Internal Revenue Code of 1986.

(2) NET WORTH TEST.—

(A) IN GENERAL.—The net worth of the household, as of the end of the calendar year preceding the determination of eligibility, does not exceed $10,000.

(B) DETERMINATION OF NET WORTH.—For purposes of subparagraph (A), the net worth of a household is the amount equal to—

(i) the aggregate market value of all assets that are owned in whole or in part by any member of the household; minus

(ii) the obligations or debts of any member of the household.

(C) EXCLUSIONS.—For purposes of determining the net worth of a household, a household's assets shall not be considered to include the primary dwelling unit and 1 motor vehicle owned by the household.

(b) INDIVIDUALS UNABLE TO COMPLETE THE PROJECT.—The Secretary shall establish such regulations as are necessary, including prohibiting future eligibility to participate in any other demonstration project conducted under this Act, to ensure compliance with this Act if an individual participating in the demonstration project moves from the community in which the project is conducted or is otherwise unable to continue participating in that project.

**SEC. 9. SELECTION OF INDIVIDUALS TO PARTICIPATE.**

From among the individuals eligible to participate in a demonstration project conducted under this Act, each qualified entity shall select the individuals—

(1) that the qualified entity deems to be best suited to participate; and

(2) to whom the qualified entity will provide deposits in accordance with section 10.

**SEC. 10. DEPOSITS BY QUALIFIED ENTITIES.**

(a) IN GENERAL.—Not less than once every 3 months during each project year, each qualified entity under this Act shall deposit in the individual development account of each individual participating in the project, or into a parallel account maintained by the qualified entity—

(1) from the non-Federal funds described in section 5(b)(4), a matching contribution of not less than $0.50 and not more than $4 for every $1 of earned income (as defined in section 911(d)(2) of the Internal Revenue Code of 1986) deposited in the account by a project participant during that period;

(2) from the grant made under section 6(b), an amount equal to the matching contribution made under paragraph (1); and

(3) any interest that has accrued on amounts deposited under paragraph (1) or (2) on behalf of that individual into the individual development account of the individual or into a parallel account maintained by the qualified entity.

(b) LIMITATION ON DEPOSITS FOR AN INDIVIDUAL.—Not more than $2,000 from a grant made under section 6(b) shall be provided to any 1 individual over the course of the demonstration project.

(c) LIMITATION ON DEPOSITS FOR A HOUSEHOLD.—Not more than $4,000 from a grant made under section 6(b) shall be provided to any 1 household over the course of the demonstration project.

(d) WITHDRAWAL OF FUNDS.—The Secretary shall establish such guidelines as may be necessary to ensure that funds held in an individual development account are not withdrawn, except for 1 or more qualified expenses. Such guidelines shall include a requirement that a responsible official of the qualified entity conducting a project approve such withdrawal in writing.

**SEC. 11. LOCAL CONTROL OVER DEMONSTRATION PROJECTS.**

A qualified entity under this Act, other than a State or local government agency, shall, subject to the provisions of section 13, have sole authority over the administration of the project. The Secretary may prescribe only such regulations or guidelines with respect to demonstration projects conducted under this Act as are necessary to ensure compliance with the approved applications and the requirements of this Act.

**SEC. 12. ANNUAL PROGRESS REPORTS.**

(a) IN GENERAL.—Each qualified entity under this Act shall prepare an annual report on the progress of the demonstration project. Each report shall specify for the period covered by the report the following information:

(1) The number of individuals making a deposit into an individual development account.

(2) The amounts in the Reserve Fund established with respect to the project.

(3) The amounts deposited in the individual development accounts.

(4) The amounts withdrawn from the individual development accounts and the purposes for which such amounts were withdrawn.

(5) The balances remaining in the individual development accounts.

(6) Such other information as the Secretary may require to evaluate the demonstration project.

(b) SUBMISSION OF REPORTS.—The qualified entity shall submit each report required to be prepared under subsection (a) to—

(1) the Secretary; and

(2) the Treasurer (or equivalent official) of the State in which the project is conducted, if the State or a local government committed funds to the demonstration project.

(c) TIMING.—The first report required by subsection (a) shall be submitted not later than 60 days after the end of the calendar year in which the Secretary authorized the qualified entity to conduct the demonstration project, and subsequent reports shall be submitted every 12 months thereafter, until the conclusion of the project.

**SEC. 13. SANCTIONS.**

(a) AUTHORITY TO TERMINATE DEMONSTRATION PROJECT.—If the Secretary determines that a qualified entity under this Act is not operating the demonstration project in accordance with the entity's application or the requirements of this Act (and has not implemented any corrective recommendations directed by the Secretary), the Secretary shall terminate such entity's authority to conduct the demonstration project.

(b) ACTIONS REQUIRED UPON TERMINATION.—If the Secretary terminates the authority to conduct a demonstration project, the Secretary—

(1) shall suspend the demonstration project;

(2) shall take control of the Reserve Fund established pursuant to section 7;

(3) shall make every effort to identify another qualified entity (or entities) willing and able to conduct the project in accordance with the approved application (or, as modified, if necessary to incorporate the recommendations) and the requirements of this Act;

(4) shall, if the Secretary identifies an entity (or entities) described in paragraph (3)—

(A) authorize the entity (or entities) to conduct the project in accordance with the approved application (or, as modified, if necessary, to incorporate the recommendations) and the requirements of this Act;

(B) transfer to the entity (or entities) control over the Reserve Fund established pursuant to section 7; and

(C) consider, for purposes of this Act—

(i) such other entity (or entities) to be the qualified entity (or entities) originally authorized to conduct the demonstration project; and

(ii) the date of such authorization to be the date of the original authorization; and

(5) if, by the end of the 1-year period beginning on the date of the termination, the Secretary has not found a qualified entity (or entities) described in paragraph (3), shall—

(A) terminate the project; and

(B) from the amount remaining in the Reserve Fund established as part of the project, remit to each source that provided funds under section 5(b)(4) to the entity originally authorized to conduct the project, an amount that bears the same ratio to the amount so remaining as the amount provided by the source under section 5(b)(4) bears to the amount provided by all such sources under that section.

**SEC. 14. EVALUATIONS.**

(a) IN GENERAL.—Not later than 10 months after the date of enactment of this Act, the Secretary shall enter into a contract with an independent research organization to evaluate, individually and as a group, all qualified entities and sources participating in the demonstration projects conducted under this Act.

(b) FACTORS TO EVALUATE.—In evaluating any demonstration project conducted under this Act, the research organization shall address the following factors:

(1) The savings account characteristics (such as threshold amounts and match rates) required to stimulate participation in the demonstration project, and how such characteristics vary among different populations or communities.

(2) What service configurations of the qualified entity (such as peer support, structured planning exercises, mentoring, and case management) increase the rate and consistency of participation in the demonstration project and how such configurations vary among different populations or communities.

(3) The economic, civic, psychological, and social effects of asset accumulation, and how such effects vary among different populations or communities.

(4) The effects of individual development accounts on savings rates, homeownership, level of education attained, and self-employment, and how such effects vary among different populations or communities.

(5) The potential financial returns to the Federal Government and to other public sector and private sector investors in individual development accounts over a 5-year and 10-year period of time.

(6) The lessons to be learned from the demonstration projects conducted under this Act and if a permanent program of individual development accounts should be established.

(7) Such other factors as may be prescribed by the Secretary.

(c) METHODOLOGICAL REQUIREMENTS.—In evaluating any demonstration project conducted under this Act, the research organization shall—

(1) to the extent possible, use control groups to compare participants with nonparticipants;

(2) before, during, and after the project, obtain such quantitative data as are necessary to evaluate the project thoroughly; and

(3) develop a qualitative assessment, derived from sources such as in-depth interviews, of how asset accumulation affects individuals and families.

(d) REPORTS BY THE SECRETARY.—

(1) INTERIM REPORTS.—Not later than 90 days after the end of the calendar year in which the Secretary first authorizes a qualified entity to conduct a demonstration project under this Act, and every 12 months thereafter until all demonstration projects conducted under this Act are completed, the Secretary shall submit to Congress an interim report setting forth the results of the reports submitted pursuant to section 12(b).

(2) FINAL REPORTS.—Not later than 12 months after the conclusion of all demonstration projects conducted under this Act, the Secretary shall submit to Congress a final report setting forth the results and findings of all reports and evaluations conducted pursuant to this Act.

(e) EVALUATION EXPENSES.—The Secretary shall expend such sums as may be necessary to carry out the purposes of this section.

**SEC. 15. AUTHORIZATIONS OF APPROPRIATIONS.**

There is authorized to be appropriated to carry out this Act, $25,000,000 for each of fiscal years 1998, 1999, 2000, and 2001, to remain available until expended.

**SEC. 16. FUNDS IN INDIVIDUAL DEVELOPMENT ACCOUNTS OF DEMONSTRATION PROJECT PARTICIPANTS DISREGARDED FOR PURPOSES OF ALL MEANS-TESTED FEDERAL PROGRAMS.**

Notwithstanding any other provision of law that requires consideration of 1 or more financial circumstances of an individual, for the purpose of determining eligibility to receive, or the amount of, any assistance or benefit authorized by such law to be provided to or for the benefit of such individual, funds (including interest accruing) in an individual development account (as defined in section 4(4)) shall be disregarded for such purpose with respect to any period during which the individual participates in a demonstration project conducted under this Act (or would be participating in such a project but for the suspension of the project).

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By Mr. COVERDELL:

S. 1107. A bill to protect consumers by eliminating the double postage rule under which the Postal Service requires competitors of the Postal Service to charge above market prices; to the Committee on Governmental Affairs.

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## DOUBLE POSTAGE RULE ELIMINATION ACT

Mr. COVERDELL. Mr. President, I am today introducing the Double Postage Rule Elimination Act of 1997. This legislation will protect consumers by eliminating the double postage rule under which the Postal Service requires its competitors to charge above market prices.

We have in effect today laws known as the Private Express Statutes or PES. These laws make it generally unlawful for any person other than the Postal Service to send or carry letters over postal routes for compensation, with some exceptions. Under the PES, private delivery companies must set their two-day delivery rates at twice those of the Postal Service for similarly sized items.

In addition, the PES gives the Postal Service the right to impose fines on businesses that use private delivery companies to deliver time-sensitive mail rather than using the Postal Service. Current regulations permit a business to choose a private carrier—such as UPS, Federal Express, or others—if the business feels that the message is urgent. The catch is that the Postal Service feels it alone can determine if a message is truly urgent, not the consumer.

Currently, the Postal Service charges $3.00 per item for its Priority Mail, which is advertised as reaching the recipient in two days, though that isn't guaranteed. This means the lowest price a private competitor can offer for two-day delivery is $6.00. If the Postal Service raised its rate by $1.00 to $4.00 an item, a private delivery company offering $6.00 service would have no choice but to impose a $2.00 increase, to $8.00.

As you can see, the law gives the Postal Service great power to control the rates charged by its private competitors and limit competition. Combine that with the Postal Service's ability to second-guess a consumer's decision to use a private carrier and you have a very uneven playing field.

The Postal Service has displayed a willingness to use its governmental powers for competitive advantage. In 1993 it was reported that the Postal Service had audited corporations and fined them as much as $500,000 in back postage fees for using UPS and Federal Express when the Postal Service inspectors thought those choices were not warranted.

More recently, the Postal Service spent over $200 million on an advertising campaign for Priority Mail. The campaign was based on the Postal Service's lower price—$3.00 for Priority Mail versus $6.00 for UPS and $8.00 for Federal Express. Of course, the ads left out the fact that the private companies were prohibited by law from matching the Postal Service price—or charging anything less than $6.00 a letter.

Mr. President, the bill I am introducing today does one simple thing to level the field of competition. It replaces the double postage rule with a ''two-dollar'' rule. Under my bill, private companies will be able to legally charge any rate above $2.00 for their second-day products. If they want to match the Postal Service at $3.00, they may. The law will no longer impose an artificial ''double postage'' rule forcing private companies to charge above market rates.

This legislation will stop government intrusions into private consumer decisions and will increase competition in the area of delivering urgent letters. I urge support for the Double Postage Rule Elimination Act of 1997.

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By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S. 1108. A bill to designate the Federal building located at 290 Broadway in New York, New York, as the ''Ronald H. Brown Federal Building''; to the Committee on Environment and Public Works.

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## THE RONALD H. BROWN FEDERAL BUILDING DESIGNATION ACT OF 1997

Mr. MOYNIHAN. Mr. President, I rise to introduce a bill to honor and remember a truly exceptional American, Ronald H. Brown. The bill would designate the newly constructed Federal

building located at 290 Broadway in the heart of lower Manhattan as the ''Ronald H. Brown Federal Building.''

It is a fitting gesture to recognize the passing of this remarkable American, and I would ask for my colleagues' support for this legislation to place one more marker in history on Ron Brown's behalf.

Ron Brown had a great love for enterprise and industry as reflected in his achievements as the first African-American to hold the office of U.S. Secretary of Commerce. His was also a life of outstanding achievement and public service: Army captain; vice president of the National Urban League; partner in a prestigious law firm; chairman of the National Democratic Committee; husband and father. And these are but a few of the achievements that demonstrated Ron Brown's spirited and sweeping pursuit of life.

To have held any one of these posts in the government, and in the private sector, is extraordinary. To have held all of the positions he did and prevail as he did, is unique. Ron Brown was tragically taken from us too soon; we are diminished by his loss. I cannot think of a more fitting tribute to this uncommon man.

I ask unanimous consent that the text of the Ronald H. Brown Federal Building Designation Act of 1997 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1108

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DESIGNATION.**

The Federal building located at 290 Broadway in New York, New York, shall be known and designated as the ''Ronald H. Brown Federal Building''.

**SEC. 2. REFERENCES.**

Any reference in any law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the ''Ronald H. Brown Federal Building.

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By Mr. SPECTER:

S. 1110. A bill to amend title 28, United States Code, to place a limitation on habeas corpus relief that prevents retrial of an accused; to the Committee on the Judiciary.

THE VICTIM PROTECTION ACT OF 1997

Mr. SPECTER. Mr. President, I seek recognition to introduce the Victim Protection Act of 1997.

I commend my colleague, Representative JOSEPH PITTS, for his leadership in preparing this legislation which he is introducing today in the House of Representatives.

This legislation arises from the case of Commonwealth versus Lisa Michelle Lambert where the U.S. District Court for the Eastern District of Pennsylvania found a violation of the defendant's constitutional rights and issued an order barring the defendant from a retrial.

The Congress has the authority to legislate under Article V of the 14th amendment which provides:

The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

This legislation is designed to prevent the U.S. District Courts from ordering a remedy to bar a new trial.

This legislation respects the authority of the Federal courts to uphold a defendant's constitutional rights in State court criminal proceedings. It may well be that the Court of Appeals for the Third Circuit will act to reverse the order barring a retrial.

Whatever action is taken in the case of Commonwealth versus Lisa Michelle Lambert, the Federal habeas corpus law should be clear that U.S. District Courts do not have the authority to bar a retrial.

Under our Federal system, it should be—and this bill will establish the statutory authority—for the district attorney in Lancaster County to make the judgment whether the unsuppressed evidence is sufficient for a retrial. It would then be up to the court of Common Pleas of Lancaster County to make the first judicial judgment on the retrial issues with appropriate appellate procedures in the Superior and Supreme Courts of Pennsylvania.

This principled approach respects judicial independence.

When the District Court issued its opinion, there was an immediate public outcry for impeachment. At that time, I said and I repeat today, impeachment is not an appropriate response.

The appropropriate response is an appeal to the United States Court of Appeals for the Third Circuit which will review the matter. A further appropriate response is legislation to make the statute explicit that the district court may not impose a remedy to bar a new trial.

This bill would not affect the otherwise extensive authority of the U.S. District Courts to protect rights where constitutional issues are raised. Obviously, a statute could not deal with the defendant's constitutional rights. That would require a constitutional amendment.

However, this bill on the issue of retrial is within the purview of appropriate legislation pursuant to Article V of the 14th amendment.

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By Mr. LAUTENBERG:

S. 1111. A bill to establish a youth mentoring program; to the Committee on the Judiciary.

JUMP AHEAD ACT OF 1997

Mr. LAUTENBERG. Mr. President, millions of young people in America live in areas where drug use, violent and property crimes are a way of life. Unfortunately, many of these same young people come from one-parent homes, or from environments where there is no responsible, caring adult supervision. These at-risk children are on the brink—their lives could go in either a positive or destructive direction. There is indisputable evidence, however, that at-risk children who have responsible adult mentors choose the right path.

Mr. President, that is why today I am introducing legislation, the JUMP Ahead Act of 1997, that will take mentoring in this country to the next level to meet the needs of millions of at-risk youths and their families.

All children and adolescents need caring adults in their lives, and mentoring is one effective way to fill this special need for at-risk children. The special bond of commitment fostered by the mutual respect inherent in effective mentoring can be the tie that binds a young person to a better future. Through a mentoring experience, adult volunteers and participating youth make a significant commitment of time and energy to develop relationships devoted to personal, academic, or career development and social, artistic, or athletic growth.

Although in recent years there has been an increasing understanding of the importance and benefits of mentoring, too few at-risk children are being reached. It is reported that between 5 and 15 million children in the U.S. could benefit from being matched with a mentor. The status quo cannot meet this need.

As I rise today to talk about the value and importance of mentoring to at-risk youth, we are in the midst of a crisis in the form of a growing tide of juvenile crime. While overall crime rates have been stabilizing and even decreasing in some areas, crime among our youth has been on the rise. If trends continue, juvenile arrests for violent crime will double by the year 2010.

In addition to juvenile crime, today's youth faces other serious problems. Every day in America 2,795 teens get pregnant, 1,512 teenagers drop out of school, and 211 children are arrested for drug use.

If we don't act quickly and decisively, we risk losing a whole generation of young people. We need to save our kids.

Mr. President, that is why in 1992 I authored the Juvenile Mentoring Program (JUMP). JUMP is administered by the Department of Justice's Office of Juvenile Justice and Delinquency Prevention (OJJDP). JUMP is targeted specifically at reducing juvenile delinquency and gang participation, improving academic performance, and reducing the dropout rate by introducing adult mentors as role models, counselors, and friends for at-risk youth. Both local education agencies and public/private non-profit organizations receive JUMP grants.

Since its enactment, JUMP has funded 93 separate mentoring programs in over half the States in the Union. The competition for these JUMP awards is great: Over 479 communities submitted applications for the recent round of grants. JUMP grantees use a variety of program designs. Mentors are law enforcement and fire department personnel, college students, senior citizens, Federal employees, businessmen, and other private citizens. The mentees are

of all races they come from urban, suburban, and rural communities, and range in age from 5 to 20. Some are incarcerated or on probation, some are in school, and some are dropouts. In its first year, JUMP helped to keep thousands of at-risk young people in 25 States in school and off the streets through one-to-one mentoring.

Mr. President, now is the time to take mentoring to the next level. The JUMP Ahead Act enhances the basic successful structure of JUMP, and increases awards to up to $200,000. It also increases authorized funding to $50 million per year for 4 years, for a total of $200 million. This initiative will not only vastly increase the number of mentoring programs able to receive grants, but it also creates a new category of grants that will enable experienced national organizations to provide needed technical assistance to emerging mentoring programs nationwide. Also, the legislation mandates the Justice Department to rigorously evaluate the program to document what is effective, and what does not produce results. The increased funding allows the DOJ to award grants to a wider group of applicants, allowing for greater diversity and creativity. However, the high standards set by the JUMP program still must be met by all grantees.

Mr. President, mentoring works. Not only is this confirmed by common sense and life experience, but also by scientific study. Perhaps the most well-known mentoring program is the world-renowned Big Brothers/Big Sisters of America, a federation of more than 500 agencies that serve children and adolescents. About one quarter of all JUMP grantees are Big Brothers/Big Sisters affiliates. They have been providing mentors to young people for over 90 years with wonderful results. And now those results have been scientifically validated.

A carefully designed independent evaluation of mentoring programs found tremendously positive results and that mentoring programs offer great promise. Most noteworthy among those findings was that mentored youth were 46 percent less likely to initiate drug use. An even stronger effect was found for minority Little Brothers and Little Sisters, who were 70 percent less likely to initiate drug use than similar minority youth.

Additionally, Mr. President, mentored youth were 27 percent less likely to initiate alcohol use, and minority Little Sisters were only about one-half as likely to initiate alcohol use. The study also found that mentored youth skipped half as many days of school, felt more competent about doing schoolwork, skipped fewer classes, and showed modest gains in their grade point averages. These gains were strongest among Little Sisters, particularly minority Little Sisters.

Mr. President, effective mentoring programs require agencies that take substantial care in recruiting, screening, matching, and supporting volunteers. These are critical functions for an effective mentoring program. The investment in comparison to the benefits to individual kids and society as a whole is minimal; approximately $1,000 per child. Such a small price for such an enormous payoff.

Mr. President, experience and now research tells us that there is a desperate need for a new, more positive approach to developing youth policy and discouraging juvenile crime and violence. Mentoring has proven to be one of the best way to get to kids before they get into trouble. We have been talking for years about the need to provide our children with a better future, to give our kids something to say ''yes'' to. JUMP was a great, but small, first step in the right direction. Now it is time to take a giant leap—a JUMP Ahead.

In Washington, we talk easily about investing in our kids' future. Whenever we want to build a highway or a bridge, we call it an investment for the future. If we want to ratify trade treaties, we call it an investment in our future. The same goes for everything from cutting the deficit to building sophisticated defense systems to sending probes to Mars.

Mr. President, there cannot be a more important investment in the future of our country and our people than directly investing in saving our kids. And that is what mentoring is all about. Mentoring works. Effective mentoring programs can significantly reduce and prevent the use of alcohol and drugs by young people, improve school attendance and performance, improve peer and family relationships, and curb violent behavior.

Mr. President, what greater investment can we make?

I hope my colleagues will support the bill, and ask unanimous consent that a copy of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1111

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''JUMP Ahead Act of 1997''.

**SEC. 2. FINDINGS.**

Congress finds that—

(1) millions of young people in America live in areas in which drug use and violent and property crimes are pervasive;

(2) unfortunately, many of these same young people come from single parent homes, or from environments in which there is no responsible, caring adult supervision;

(3) all children and adolescents need caring adults in their lives, and mentoring is an effective way to fill this special need for at-risk children. The special bond of commitment fostered by the mutual respect inherent in effective mentoring can be the tie that binds a young person to a better future;

(4) through a mentoring relationship, adult volunteers and participating youth make a significant commitment of time and energy to develop relationships devoted to personal, academic, or career development and social, artistic, or athletic growth;

(5) rigorous independent studies have confirmed that effective mentoring programs can significantly reduce and prevent the use of alcohol and drugs by young people, improve school attendance and performance, improve peer and family and peer relationships, and reduce violent behavior;

(6) since the inception of the Federal JUMP program, dozens of innovative, effective mentoring programs have received funding grants;

(7) unfortunately, despite the recent growth in public and private mentoring initiatives, it is reported that between 5,000,000 and 15,000,000 additional children in the United States could benefit from being matched with a mentor; and

(8) although great strides have been made in reaching at-risk youth since the inception of the JUMP program, millions of vulnerable American children are not being reached, and without an increased commitment to connect these young people to responsible adult role models, our country risks losing an entire generation to drugs, crime, and unproductive lives.

**SEC. 3. JUVENILE MENTORING GRANTS.**

(a) IN GENERAL.—Section 288B of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5667e–2) is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''The Administrator shall'';

(2) by striking paragraph (2) and inserting the following:

''(2) are intended to achieve 1 or more of the following goals:

''(A) Discourage at-risk youth from—

''(i) using illegal drugs and alcohol;

''(ii) engaging in violence;

''(iii) using guns and other dangerous weapons;

''(iv) engaging in other criminal and antisocial behavior; and

''(v) becoming involved in gangs.

''(B) Promote personal and social responsibility among at-risk youth.

''(C) Increase at-risk youth's participation in, and enhance the ability of those youth to benefit from, elementary and secondary education.

''(D) Encourage at-risk youth participation in community service and community activities.

''(E) Provide general guidance to at-risk youth.''; and

(3) by adding at the end the following:

''(b) AMOUNT AND DURATION.—Each grant under this part shall be awarded in an amount not to exceed a total of $200,000 over a period of not more than 3 years.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $50,000,000 for each of fiscal years 1999, 2000, 2001, and 2002 to carry out this part.''.

**SEC. 4. IMPLEMENTATION AND EVALUATION GRANTS.**

(a) IN GENERAL.—The Administrator of the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice may make grants to national organizations or agencies serving youth, in order to enable those organizations or agencies—

(1) to conduct a multisite demonstration project, involving between 5 and 10 project sites, that—

(A) provides an opportunity to compare various mentoring models for the purpose of evaluating the effectiveness and efficiency of those models;

(B) allows for innovative programs designed under the oversight of a national organization or agency serving youth, which programs may include—

(i) technical assistance;

(ii) training; and

(iii) research and evaluation; and

(C) disseminates the results of such demonstration project to allow for the determination of the best practices for various mentoring programs;

(2) to develop and evaluate screening standards for mentoring programs; and

(3) to develop and evaluate volunteer recruitment techniques and activities for mentoring programs.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $5,000,000 for each of the fiscal years 1999, 2000, 2001, and 2002 to carry out this section.

**SEC. 5. EVALUATIONS; REPORTS.**

(a) EVALUATIONS.—

(1) IN GENERAL.—The Attorney General shall enter into a contract with an evaluating organization that has demonstrated experience in conducting evaluations, for the conduct of an ongoing rigorous evaluation of the programs and activities assisted under this Act or under section 228B of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5667e–2) (as amended by this Act).

(2) CRITERIA.—The Attorney General shall establish a minimum criteria for evaluating the programs and activities assisted under this Act or under section 228B of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5667e–2) (as amended by this Act), which shall provide for a description of the implementation of the program or activity, and the effect of the program or activity on participants, schools, communities, and youth served by the program or activity.

(3) MENTORING PROGRAM OF THE YEAR.—The Attorney General shall, on an annual basis, based on the most recent evaluation under this subsection and such other criteria as the Attorney General shall establish by regulation—

(A) designate 1 program or activity assisted under this Act as the ''Juvenile Mentoring Program of the Year''; and

(B) publish notice of such designation in the Federal Register.

(b) REPORTS.—

(1) GRANT RECIPIENTS.—Each entity receiving a grant under this Act or under section 228B of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5667e–2) (as amended by this Act) shall submit to the evaluating organization entering into the contract under subsection (a)(1), an annual report regarding any program or activity assisted under this Act or under section 228B of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5667e–2) (as amended by this Act). Each report under this paragraph shall be submitted at such time, in such a manner, and shall be accompanied by such information, as the evaluating organization may reasonably require.

(2) COMPTROLLER GENERAL.—Not later than 4 years after the date of enactment of this Act, the Attorney General shall submit to Congress a report evaluating the effectiveness of grants awarded under this Act and under section 228B of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5667e–2) (as amended by this Act), in—

(A) reducing juvenile delinquency and gang participation;

(B) reducing the school dropout rate; and

(C) improving academic performance of juveniles.

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By Mr. CAMPBELL (for himself, Mr. INOUYE, Mr. CONRAD, and Mr. WELLSTONE):

S. 1112. A bill to require the Secretary of the Treasury to mint coins in commemoration of native American history and culture; to the Committee on Banking, Housing, and Urban Affairs.

THE BUFFALO NICKEL COMMEMORATIVE COIN ACT OF 1997

Mr. CAMPBELL. Mr. President, it gives me great personal pleasure to introduce the Buffalo Nickel Commemorative Coin Act of 1997. I am also pleased to add Senators INOUYE, CONRAD, and WELLSTONE as cosponsors of this legislation.

For those of us old enough to remember or for those who have seen one, the buffalo nickel holds a special place in history. This coin was in general circulation from 1913 to 1938, and it featured an Indian head design on one side with a buffalo design on the reverse.

The coin's history is an interesting one, and I would like to share it with my colleagues. The artist who designed this coin, James Earle Fraser, wanted to produce a coin which was truly unique and American. I believe Mr. Fraser put it best himself when he said,

In designing the buffalo nickel, my first object was to produce a coin which was truly American, and that could not be confused with the currency of any other country. I made sure, therefore, to use none of the attributes that other nations had used in the past. And, in my search for symbols, I found no motif within the boundaries of the United States so distinctive as the American buffalo or bison.

According to historical sources, the Indian head on the nickel was created by Mr. Fraser based upon three models: Iron Tail, an Oglala Sioux; Two Moons, a Northern Cheyenne; and Big Tree, a Seneca Iroquois. Supposedly all three Indians were performers appearing in wild-west shows in New York City at the time they posed for Mr. Fraser.

As for the buffalo, historians generally agree that the model was Black Diamond, a bull bison residing in the Central Park Zoo. Unfortunately, after being immortalized on the buffalo nickel, Black Diamond was slaughtered.

The end result was a coin which was, indeed, truly unique. It has been roughly 60 years since the U.S. Bureau of the Mint ended production of the buffalo nickel. The bill I am offering today would direct the Secretary of the Treasury to mint a limited-edition commemorative buffalo nickel coin to begin in the year 2000. I believe it is fitting to reintroduce this beloved coin to new generations of Americans.

These coins will also serve another important purpose appropriate to its heritage. Profits from the sale of the coins will go to the endowment and educational funds of the National Museum of the American Indian. Authorized in 1989 by the National Museum of the American Indian Act, Public Law 101–185, the museum is set to begin construction in order to meet its scheduled opening date in the year 2002. The facility, to be located on the Mall here in Washington, DC, will house over 1 million artifacts and is expected to draw millions of visitors each year. By contributing funds to the endowment and educational programs of the museum, the buffalo nickel will be assisting with the preservation of native artifacts and offer visitors to the museum the opportunity to appreciate and learn more about native cultures.

The origins of this bill actually began some time ago when an individual contacted my office with this idea. Following that, my friend and former colleague, Tim Wirth, sent me a note saying he thought it was a great idea, and since then I have received hundreds of postcards from people across the country expressing their desire to see the return of the buffalo nickel. With that, I am pleased to be able to introduce this legislation, and I look forward to working with my colleagues, the Citizens Commemorative Coin Advisory Committee, and the U.S. Treasury in order to make the buffalo nickel a success.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1112

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''United States Buffalo Nickel Act of 1997''.

**SEC. 2. COIN SPECIFICATIONS.**

(a) DENOMINATIONS.—Notwithstanding any other provision of law, during the 3-year period beginning on January 1, 2000, the Secretary of the Treasury (hereafter in this Act referred to as the ''Secretary'') shall mint and issue each year not more than 1,000,000 5-cent coins, which shall—

(1) weigh 5 grams;

(2) have a diameter of 0.835 inches; and

(3) contain an alloy of 90 percent silver and 10 percent copper.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of section 5134 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

**SEC. 3. SOURCES OF BULLION.**

The Secretary shall obtain silver for minting coins under this Act only from stockpiles established under the Strategic and Critical Materials Stockpiling Act.

**SEC. 4. DESIGN OF COINS.**

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins minted under this Act shall be based on the original 5-cent coin designed by James Earle Fraser and minted from 1913 to 1938. Each coin shall have on the obverse side a profile representation of a Native American, and on the reverse side a representation of a buffalo.

(2) DESIGNATIONS AND INSCRIPTIONS.—On each coin minted under this Act there shall be—

(A) a designation of the value of the coin;

(B) an inscription of the year; and

(C) inscriptions of the words ''United States of America'', ''Liberty'', and ''E Pluribus Unum''.

(b) SELECTION.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary after consultation with the Committee on Banking, Housing, and Urban Affairs and the Committee on Indian Affairs of the Senate and the Commission of Fine Arts; and

(2) reviewed by the Citizens Commemorative Coin Advisory Committee.

**SEC. 5. ISSUANCE OF COINS.**

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular combination of denomination and quality of the coins minted under this Act.

(c) TERMINATION OF MINTING AUTHORITY.—No coins may be minted under this Act after December 31, 2000.

**SEC. 6. SALE OF COINS.**

(a) SALE PRICE.—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in subsection (d) with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) PREPAID ORDERS.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

(d) SURCHARGES.—All sales shall include a surcharge of $1.00 per coin.

**SEC. 7. GENERAL WAIVER OF PROCUREMENT REGULATIONS.**

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this Act.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) does not relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

**SEC. 8. DISTRIBUTION OF SURCHARGES.**

(a) PERMISSIBLE PURPOSES.—All surcharges received by the Secretary from the sale of coins issued under this Act shall be paid promptly by the Secretary to the National Museum of the American Indian for the purposes of—

(1) commemorating the tenth anniversary of the establishment of the Museum; and

(2) supplementing the endowment and educational outreach funds of the Museum.

(b) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the National Museum of the American Indian as may be related to the expenditures of amounts paid under subsection (a).

**SEC. 9. FINANCIAL ASSURANCES.**

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this Act unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

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By Mr. GRASSLEY (for himself, Mr. DURBIN, Mr. HATCH, Mr. DEWINE, Mr. HAGEL, and Mr. WARNER):

S. 1113. A bill to extend certain temporary judgeships in the Federal judiciary; to the Committee on the Judiciary.

TEMPORARY JUDGESHIP LEGISLATION

Mr. GRASSLEY. Mr. President, as Chairman of the Judiciary Subcommittee on Administrative Oversight and the Courts, I have studied the recommendations of the Judicial Conference regarding the extension of a number of temporary article III judgeships. I am offering this bill along with Senators DURBIN, HATCH, DEWINE, WARNER, and HAGEL in response to the Judicial Conference's recommendations.

Much anecdotal evidence and rhetorical commentary have been given, in both the press and from this body, regarding the burdened and overworked state of the Federal judiciary. My experiences do not bear this out. I have been a member of the Judiciary Subcommittee on Administrative Oversight and the Courts for a number of years. In past years, this committee was likely to take the Judicial Conference's recommendations as given. Recently, in my role as chairman, I have taken a more hands on approach to the appointment and extension of judgeships in the Federal system. As part of this approach, I have held hearings on this subject and I have made suggestions to the Judicial Conference on ways to improve their surveys. In part, as a result of my input, the Judicial Conference added a question to its Biennial Judicial Survey that asks not only if the circuit or district has need of additional judgeships, but also whether the circuit or district might have too many judgeships for its current caseload. Because caseloads in some districts will inevitably decline, this question addresses a problem not previously considered. The purpose of the question is to help the Judicial Conference decide, when faced with a district that has a declining caseload, whether to reallocate resources to another district or eliminate an unnecessary judgeship.

As I noted, I have studied various judiciary issues and have worked with the judiciary to address some of these issues. From my studies and from conversations I've had with those on the bench, it is obvious that there is no judicial crisis looming on the horizon. However, changing circumstances in some judicial districts do need to be addressed. That is why I am proposing this bill. It addresses the needs of some of these districts in a substantive, rational manner.

Biennially, the Judicial Conference makes judgeship recommendations to Congress regarding the needs of the Federal courts. The Conference sends the chief judge of each district a Biennial Judicial Survey that they are to submit with the caseloads and weighted caseloads of the district and report on the status of the district. This survey includes information on how the district makes use of its senior and magistrate judges and any recommendations that the chief judge may have regarding additional judgeships or extension of judgeships in their district. The Judicial Conference reviews this information and passes its recommendations on to Congress for review.

For the 1996 survey, the Judicial Conference recommended that 12 districts with current or expired temporary judgeships either make or add permanent positions or extend the temporary judgeships for an additional 5 years. The Judicial Conference only made recommendations for those districts which would have weighted caseloads in excess of the 430 maximum recommended caseload per article III judge, should the temporary position expire.

Weighted caseloads are the actual caseloads per district, weighted or altered to reflect the difference in time and attention needed for certain types of cases. For example, criminal cases, in general, are more time consuming and thus are more heavily weighted. However, prisoner petitions are generally easier to resolve because the petition usually addresses issues previously addressed and resolved by the court.

Based on this survey, the Judicial Conference recommended a permanent judgeship position be added to the northern district of Alabama to replace the temporary judgeship Congress allowed to expire last year. In addition, the Conference would like to make the temporary judgeships in the eastern district of California, northern district of New York, eastern district of Virginia, and the southern district of Illinois permanent. The survey indicated that the weighted caseload per article III judge exceeded the recommended 430 maximum caseload per judge. The Judicial Conference also recommended, based on this survey, that the temporary judgeships in the districts of Hawaii, Kansas, Nebraska, eastern Missouri, central Illinois, and southern Ohio be extended for another 5 years. The Biennial Judicial Survey indicated that these districts would be above the recommended 430 weighted cases per article III judge if the temporary judgeships were eliminated.

Based on my studies, most of the districts that currently have temporary judgeships are able to show the need for the extension of these judgeships. I used additional factors, not used in the Biennial Judicial Survey, to arrive at my recommendations for the districts. My investigation takes into consideration the cases handled by magistrate and senior judges. These studies show that when these cases are factored out, some districts fall below the recommended maximum caseload of 430 cases per article III judge, even after expiration of the temporary judgeships. In deference to the Judicial Conference, I have given those districts the

benefit of the doubt on their need for an extension and have recommended an extension of their temporary judgeships. My willingness to accommodate the Judicial Conference recommendations underlines my willingness to work with the judiciary to reach a reasonable compromise when possible.

The Judicial Conference's recommendation for permanent status in the districts of eastern California, northern New York, eastern Virginia, and southern Illinois differs from my recommendation. After my review, I do not believe the Conference's recommendation can be justified. Among the factors I considered for extending permanent status for these districts is whether the district showed a consistent increase in its per judge caseload over the past several years. When plotted, caseloads from most of these districts, show a roller coaster ride regarding the number of cases filed per article III judge. Over the period tracked, caseload increases were inconsistent and filings frequently decreased compared to previous years. Additionally, the Judicial Conference does not take into consideration, in the caseload statistics of each article III judge, how many cases are performed or could be performed by magistrate judges or senior judges. Cases, such as prisoner petitions and Social Security cases could, in most instances, be performed by magistrate judges. When prisoner petitions and Social Security cases are weighted and removed from the weighted caseload total per article III judge, the districts have a lower and much more representative calculation of the actual caseload per article III judge. And these figures don't even adjust for the consent cases the magistrate's handle.

The data I have indicates that prisoner petitions and Social Security cases are included in computing the judicial caseload figures used by the Judicial Conference to calculate each article III judge's caseload. For example, the eastern district of California commenced 1,747 cases dealing purely with prisoner petitions in the fiscal year ending September 30, 1996. In that district, magistrate judges resolved 1828 prisoner petition cases during that period. The difference in the number of cases resolved during that period would be those cases commenced in the prior year, but resolved in the current year.

Additionally, my study indicates that some of the district's surveyed are not utilizing magistrate judges as effectively or efficiently as other districts in the survey. This factor needs to be taken into account prior to granting any additional or permanent article III judgeships to these districts. It is, in part, such considerations that led me not to recommend an additional permanent judgeship in Alabama, contrary to the recommendation of the Judicial Conference. In addition, Congress chose not to extend the temporary judgeship in that district before it expired last year.

In calculating if districts are overburdened, weight must also be given to the effective use of senior judges in those districts. My studies took into consideration the district's use of senior judges. Several districts surveyed make effective use of their senior judges and this was taken into account when drafting this bill. Based on all of the factors I have outlined, I believe this bill will keep the judges in these districts from being overburdened and makes effective use of the taxpayer's money.

Therefore, I recommend that the temporary judgeships in the eastern district of California, the northern district of New York, the eastern district of Virginia, the southern and central districts of Illinois, the eastern district of Missouri, the northern district of Ohio, and the districts of Hawaii, Nebraska, and Kansas be extended for another 5-year period.

Mr. President, I ask for unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1113

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSION OF CERTAIN TEMPORARY JUDGESHIPS.**

Section 203(c) of the Judicial Improvements Act of 1990 (Public Law 101–650; 104 Stat. 5101; 28 U.S.C. 133 note), as amended by Public Law 104–60 (109 Stat. 635; 28 U.S.C. 133 note), is amended—

(1) by striking paragraph (1); and

(2) by striking the last 2 sentences and inserting ''Except with respect to the western district of Michigan and the eastern district of Pennsylvania, the first vacancy in the office of district judge in each of the judicial districts named in this subsection, occurring 10 years or more after the confirmation date of the judge named to fill the temporary judgeship created by this subsection, shall not be filled. The first vacancy in the office of district judge in the western district of Michigan, occurring after December 1, 1995, shall not be filed. The first vacancy in the office of district judge in the eastern district of Pennsylvania, occurring 5 years or more after the confirmation date of the judge named to fill the temporary judgeship created for such district under this subsection, shall not be filled.''.

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By Mr. JEFFORDS (for himself, Mr. ROCKEFELLER, Ms. MIKULSKI, Mr. INOUYE, Mr. DASCHLE, Mr. KERRY, Mrs. BOXER, Mrs. FEINSTEIN, Mr. DODD, Mr. WELLSTONE, Mr. HARKIN, and Mr. HOLLINGS):

S. 1114. A bill to impose a limitation on lifetime aggregate limits imposed by health plans; to the Committee on Labor and Human Resources.

THE LIFETIME CAPS DISCRIMINATION PREVENTION ACT

Mr. JEFFORDS. Mr. President, I am pleased to introduce legislation with Senator ROCKEFELLER that will ensure that health insurance policies cover at least $10 million in lifetime benefits. This bill, the Lifetime Caps Discrimination Prevention Act, will help fulfill the promise of real health security and is an appropriate sequel to last year's Kassebaum-Kennedy health insurance reform legislation. Through our reform legislation, families can be spared the loss of their health insurance when they need it the most.

All of us are at risk of incurring high-cost injuries or illnesses—the very kind of situations that most people want covered by their health insurance polices. A $1 million cap was adequate when it was established by the insurance industry in the early 1970's. Since then, however, inflation has sent medical costs skyrocketing, and today, thousands of Americans have hit their payment ceiling. A majority of those who exceed their lifetime limits must turn to public assistance. While waiting for a determination of eligibility, many individuals are forced to go without medical treatment. This legislation would keep within the private sector those who most need health coverage and would keep them off Medicaid.

Most of us assume that our health insurance will be there when we need it most—when we are very sick. Unfortunately, many people do not read the fine print in their insurance policies. The average lifetime cost of care for a person who has a spinal cord injury and is ventilator dependent—just like Christopher Reeve—is over $5 million. For someone like Jim Brady, who had a severe head trauma injury, the average cost is about $4 million, and that is in 1990 dollars. As Christopher Reeve said, ''I didn't think it could happen to Superman.''

The Lifetime Caps Discrimination Prevention Act fulfills a promise of real health security by raising the lifetime cap from the typical limit of $1 million—a dollar figure selected in the 1970's—to $5 million in 1998, and then in 2002 to $10 million, which is the real dollar equivalent today. Currently, the vast majority of health maintenance organizations and approximately one-quarter of employer-sponsored health plans have no aggregate lifetime limit. The Federal Employee Health Benefit plans removed lifetime maximums in 1995. According to a Price Waterhouse study, employers with a workforce of 250 employees would experience a mere 1 percent increase in premiums. This is a small price to pay for real health insurance security for people covered in the group market. Our legislation excludes employers with fewer than 20 employees.

The Lifetime Caps Discrimination Prevention Act was originally introduced as an amendment to the Kassebaum-Kennedy health insurance legislation passed during the 104th Congress. The amendment enjoyed strong bipartisan support, but it was defeated due to the strategy of opposing amendments to that bill. We believe that this legislation is worthy of reintroduction in the 105th Congress, and we are hopeful that it will attract even broader

support as another step that can be taken in strengthening Americans' health security. Over 150 national health-related groups, including the American Medical Association, the American Cancer Society, the United Cerebral Palsy Association, and the National Association of Professional Insurance Agents, have expressed their support for our efforts to increase lifetime limits on health insurance benefits.

The insurance industry standard of $1 million, adopted in 1970, was right for those times but today is financially unrealistic. Today, the time has come to protect thousands of individuals from suffering the emotional, medical, and financial consequences of exceeding their caps by adopting a new lifetime limit for health insurance coverage.

Mr. ROCKEFELLER. Mr. President, I rise today with my friend, Senator JIM JEFFORDS, of Vermont to introduce a bill that will help families avoid an additional tragedy in their already traumatized lives. We are introducing a bill to raise lifetime limits on insurance policies to $10 million. But, first, I want to recognize and applaud Chairman JEFFORDS' extraordinary leadership on this issue—last Congress and this year. With his leadership, we will succeed in raising the lifetime cap on health benefits to $10 million.

People buy health insurance to protect themselves and their families when they get sick. They spend their lives paying for it. They count on it. But each year, 1,500 people have their insurance taken away, just when they need it most and for the very reason why they bought the insurance in the first place, because they are gravely ill or in need to extensive medical care or some other extraordinary reason.

These 1,500 people run into the lifetime limit on their health insurance policy. When that happens, the insurance company won't spend a single cent to help that person cope with his or her health care costs. But the need for medical care continues. And the bills keep coming.

The $1 million limit, first used by insurance companies to give their customers peace of mind and security in the 1970's, is widely out-of-date and hugely insufficient. According to Price Waterhouse, had the limit kept pace with medical inflation, it would be more than $10 million today. In fact, a $1 million health insurance policy in 1970 would buy you about $100,000 in health benefits in 1997.

When a family runs into the lifetime limit, they have no choice but to spend themselves into poverty in order to qualify for Medicaid. This drains families of their assets, their self-esteem and costs Medicaid several billion dollars in additional health care costs. Many people have to give up everything—their house, their savings, and their kids' education in order to get the medical care they need through Medicaid.

In my home State of West Virginia, Mike Davis hit his $1 million lifetime cap in 1994. That was 14 years after his son Todd was hit by a drunk driver, causing severe brain injury. Before Todd qualified for Medicaid, his father received a $90,000 bill for his son's care—a bill he's still struggling to pay.

This can happen to anyone. Catastrophic injury, chronic illness or significant disability are arbitrary. They hit young and old, rich and poor. You plan for routine illness, but no one plans for this kind of illness or injury. At least if you have a health insurance policy without a $1 million cap, you can get the medical treatment you need.

Most people don't even know if their insurance policy has a lifetime cap. The insurance companies don't talk about them. The caps are stuck in the fine print. People assume that if you buy insurance, you're covered. Unfortunately, that's not the case. About 60 percent of employer-sponsored health plans have lifetime caps.

Several modifications were made to this year's bill. We include an exemption for small businesses. We give all businesses 2 years to comply. We phase the cap in—first raising it to $5 million and then lifting it to $10 million by the year 2002. We're talking about a roughly 1 percent increase in premiums, according to Price-Waterhouse. That's it.

The Federal Employees Health Benefits Program doesn't allow participating insurers to set lifetime limits on their basic health insurance polices for Federal employees. Members of Congress don't have lifetime caps. We know our health insurance will be there when we need it. All Americans should have that same security.

Raising the cap is something we can and should do. It's the right thing to do. It's good policy and it can save Medicaid up to $7 billion over the next 7 years. Mr. President, the idea behind insurance is simple: no matter how sick you are, you're covered. It's about basic decency and fairness.

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By Mr. LOTT (for himself, Mr. DASCHLE, Mr. SHELBY, Mr. ROCKEFELLER, Mr. WARNER, Mr. ROBB, Mr. INHOFE, Mr. INOUYE, Mr. COCHRAN, and Mr. CONRAD):

S. 1115. A bill to amend title 49, United States Code, to improve one-call notification process, and for other purposes; to the Committee on Commerce, Science, and Transportation.

COMPREHENSIVE ONE-CALL NOTIFICATION ACT

Mr. LOTT. Mr. President, I stand here today with my friend and colleague Senator DASCHLE, the minority leader, to introduce an important public safety bill. I am also joined by initial cosponsors Senators SHELBY, ROCKEFELLER, WARNER, ROBB, INHOFE, INOUYE, COCHRAN, and CONRAD.

The Comprehensive One-Call Notification Act is designed to protect a very important component of America's infrastructure—our underground infrastructure. With roots going back several Congresses, this legislation enjoys widespread bipartisan support and is supported by several members of the Senate's Committee for Commerce, Science and Transportation—the committee of jurisdiction. This legislation provides a public policy statement which is long overdue. The legislation is still a work in progress and I look forward to working with my colleagues across the aisle and on the Commerce Committee to further fine-tune this bill as the process moves forward.

America's underground infrastructures contain many buried communication and fiber optic cables, water and sewer pipes, electric lines, and oil and gas pipelines. All too often people inadvertently damage these facilities causing harmful consequences. Often a nick or a bump which goes unreported can, over time, become a problem and have a delayed harmful effect.

Mr. President, this bill is important because it will prevent some of the damage to underground facilities that causes accidents across America. These accidents often are caused by excavation without notice or by inaccurate markings of our underground facilities. This damage to the infrastructure may cause environmental harm and disrupt essential services and even cause injuries and fatalities.

I am not here today to condemn those who excavate. I am here today to say that one-call safety legislation is necessary because many excavation accidents are preventable.

Mr. President, America needs a single, nationwide system to forward excavators' toll free calls to the appropriate State or local one-call center. To delay further is to unnecessarily jeopardize America's underground infrastructure.

Let me make it clear this is not a new idea. It is a concept that has been embraced by many States. Already 49 States have some form of a one-call system on the State level. I am proud to say my State of Mississippi has a one-call system; however, many of these systems can be improved with Federal assistance. Our bill does that.

This bill uses an approach that will create uniform national standards and provide grants to establish or improve State one-call systems. This bill does not dictate how a one-call system should operate or how a State's law should be written. On the contrary, it requires input from States and stakeholders before developing operational best practices and gives States the latitude to continue to determine the details of its one-call statute. This analysis will serve as the catalyst for a national effort to improve State one-call programs.

Mr. President, the administration also recognizes the necessity for a one-call safety statute. When the President introduced his method for the reauthorization of America's Intermodal Surface Transportation Efficiency Act, he included a one-call provision. Our bill is different, but it is compatible. In addition to working with my initial cosponsors during the drafting phase, I

have worked with the administration to address their concerns. We are not done yet, but we are committed to continuing the dialog. The introduction of our bill is the Senate's first step.

By introducing the legislation today, we hope the congressional recess will be used by organizations and stakeholders who have an interest in this policy to enter into the discussion. It is the desire of the initial sponsors to include those with an interest in this public safety policy in preparing the legislation for a committee hearing.

This bill sets out broad minimum standards for State one-call programs. There is flexibility for States to determine who will participate and how enforcement will occur. The legislation is not proscriptive. Rather, it identifies the goals. The foundation for our approach is the understanding that the level of risk varies with each type of excavation activity as well as the type of organization which conducts the excavation work. The bill will offer State grants for those States who want to participate. A study will also be conducted to identify the best practices for one-call centers and to promote adoption of the most successful solutions.

Mr. President, this bill is neither a mandate nor unfunded. I want to repeat this. There is no mandate that every State must participate. We are simply proposing the authorization of sufficient funds to study State activities and to administer assistance to States wanting to participate.

I expect those industries which place a premium on operational convenience will recognize that one-call is responsible and a small price to pay for ensuring safety of the public and environment. I am optimistic that all affected parties will work in genuine partnership with us to finalize the legislation rather than sit on the sidelines and criticize.

Mr. President, the information highway offers many opportunities and challenges for our society and culture but, it too can be put in a peril by simple events. Just 2 weeks ago an article in the Washington Post reported that for half a day the Internet and long distance communications on one carrier were disrupted by a backhoe cutting through a fiber optic cable.

Let us also not forget the death of an 84-year-old woman in Indianapolis, IN last week where a blast leveled seven homes. The Indianapolis Star/News said the explosion turned the quiet subdivision ''into a living Hell. The blast turned trees and utility poles into impromptu candles and sent chunks of earth raining down as people ran for their lives.'' I believe our legislation will play a part in preventing this type of disaster.

Finally let's not forget the 1994 accident in Edison, NJ where there was a much larger explosion. Significant property damage occurred and again there was loss of life. This event prompted one of our former colleagues and the senior Senator from New Jersey to actively work for tougher laws governing America's infrastructure. Former New Jersey Senator, Bill Bradley and Senator FRANK LAUTENBERG were actively involved in seeking a legislative solution and today's bill is a direct result of their efforts.

I am convinced that this Congress will champion meaningful safety reforms and leadership for America's underground infrastructure. It will not be a traditional big government approach. It will help provide adaptable, convenient, accountable, meaningful and overdue protection for citizens.

I want to thank my colleagues for their attention, and I hope they will join us as cosponsors.

Mr. President, I request unanimous consent that the text and summary of the Comprehensive One-Call Notification Act be entered into the RECORD.

There being no objection, the bill and summary were ordered to be printed in the RECORD, as follows:

S. 1115

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Comprehensive One-Call Notification Act of 1997''.

**SEC. 2. FINDINGS.**

The Congress finds that—

(1) unintentional damage to underground facilities during excavation is a significant cause of disruptions in telecommunications, water supply, electric power, and other vital public services, such as hospital and air traffic control operations, and is a leading cause of natural gas and hazardous liquid pipeline accidents;

(2) excavation that is performed without prior notification to an underground facility operator or with inaccurate marking of such a facility prior to excavation can cause damage that results in fatalities, serious injuries, harm to the environment, and disruption of vital services to the public; and

(3) protection of the public and the environment from the consequences of underground facility damage caused by excavations will be enhanced by a coordinated national effort to improve one-call notification programs in each State and the effectiveness and efficiency of one-call notification systems that operate under such programs.

**SEC. 3. ESTABLISHMENT OF ONE-CALL PROGRAM.**

(a) IN GENERAL.—Subtitle III of title 49, United States Code, is amended by adding at the end thereof the following:

''CHAPTER 61. ONE-CALL NOTIFICATION PROGRAM



**''§ 6101. Purposes**

''The purposes of this chapter are—

''(1) to enhance public safety;

''(2) to protect the environment;

''(3) to minimize risks to excavators; and

''(4) to prevent disruption of vital public services,

by reducing the incidence of damage to underground facilities during excavation through the adoption and efficient implementation by all States of State one-call notification programs that meet the minimum standards set forth under section 6103.

**''§ 6102. Definitions**

''For purposes of this chapter—

''(1) ONE-CALL NOTIFICATION SYSTEM.—The term 'one-call notification system' means a system operated by an organization that has as one of its purposes to receive notification from excavators of intended excavation in a specified area in order to disseminate such notification to underground facility operators that are members of the system so that such operators can locate and mark their facilities in order to prevent damage to underground facilities in the course of such excavation.

''(2) STATE ONE-CALL NOTIFICATION PROGRAM.—The term 'State one-call notification program' means the State statutes, regulations, orders, judicial decisions, and other elements of law and policy in effect in a State that establish the requirements for the operation of one-call notification systems in such State.

''(3) STATE.—The term 'State' means a State, the District of Columbia, and Puerto Rico.

''(4) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

**''§ 6103. Minimum standards for State one-call notification programs**

''(a) MINIMUM STANDARDS.—A State one-call notification program shall, at a minimum, provide for—

''(1) appropriate participation by all underground operators;

''(2) appropriate participation by all excavators; and

''(3) flexible and effective enforcement under State law with respect to participation in, and use of, one-call notification systems.

''(b) APPROPRIATE PARTICIPATION.—In determining the appropriate extent of participation required for types of underground facilities or excavators under subsection (a), a State shall assess, rank, and take into consideration the risks to the public safety, the environment, excavators, and vital public services associated with

''(1) damage to types of underground facilities; and

''(2) activities of types of excavators.

''(c) IMPLEMENTATION.—A State one-call notification program also shall, at a minimum, provide for

''(1) consideration of the ranking of risks under subsection (b) in the enforcement of its provisions;

''(2) a reasonable relationship between the benefits of one-call notification and the cost of implementing and complying with the requirements of the State one-call notification program; and

''(3) voluntary participation where the State determines that a type of underground facility or an activity of a type of excavator poses a de minimis risk to public safety or the environment.

''(d) PENALTIES.—To the extent the State determines appropriate and necessary to achieve the purposes of this chapter, a State one-call notification program shall, at a minimum, provide for

''(1) administrative or civil penalties commensurate with the seriousness of a violation by an excavator or facility owner of a State one-call notification program;

''(2) increased penalties for parties that repeatedly damage underground facilities because they fail to use one-call notification systems or for parties that repeatedly fail to provide timely and accurate marking after

the required call has been made to a one-call notification system;

''(3) reduced or waived penalties for a violation of a requirement of a State one-call notification program that results in, or could result in, damage that is promptly reported by the violator;

''(4) equitable relief; and

''(5) citation of violations.

**''§ 6104. Compliance with minimum standards**

''(a) REQUIREMENT.—In order to qualify for a grant under section 6106, each State shall, within 2 years after the date of the enactment of the Comprehensive One-Call Notification Act of 1997, submit to the Secretary a grant application under subsection (b).

''(b) APPLICATION.—

''(1) Upon application by a State, the Secretary shall review that State's one-call notification program, including the provisions for implementation of the program and the record of compliance and enforcement under the program.

''(2) Based on the review under paragraph (1), the Secretary shall determine whether the State's one-call notification program meets the minimum standards for such a program set forth in section 6103 in order to qualify for a grant under section 6106.

''(3) In order to expedite compliance under this section, the Secretary may consult with the State as to whether an existing State one-call notification program, a specific modification thereof, or a proposed State program would result in a positive determination under paragraph (2).

''(4) The Secretary shall prescribe the form of, and manner of filing, an application under this section that shall provide sufficient information about a State's one-call notification program for the Secretary to evaluate its overall effectiveness. Such information may include the nature and reasons for exceptions from required participation, the types of enforcement available, and such other information as the Secretary deems necessary.

''(5) The application of a State under paragraph (1) and the record of actions of the Secretary under this section shall be available to the public.

''(c) ALTERNATIVE PROGRAM.—A State may maintain an alternative one-call notification program if that program provides protection for public safety, the environment, or excavators that is equivalent to, or greater than, protection under a program that meets the minimum standards set forth in section 6103.

''(d) REPORT—Within 3 years after the date of the enactment of the Comprehensive One-call Notification Act of 1997, the Secretary shall begin to include the following information in reports submitted under section 60124 of this title—

''(1) a description of the extent to which each State has adopted and implemented the minimum Federal standards under section 6103 or maintains an alternative program under subsection (c);

''(2) an analysis by the Secretary of the overall effectiveness of the State's one-call notification program and the one-call notification systems operating under such program in achieving the purposes of his chapter;

''(3) the impact of the State's decisions on the extent of required participation in one-call notification systems on prevention of damage to underground facilities; and

''(4) areas where improvements are needed in one-call notification systems in operation in the State.

The report shall also include any recommendations the Secretary determines appropriate. If the Secretary determines that the purpose of this chapter have been substantially achieved, no further report under this section shall be required.

**''§ 6105. Review of one-call system best practices**

''(a) STUDY OF EXISTING ONE-CALL SYSTEMS.—Except as provided in subsection (d), the Secretary, in consultation with other appropriate Federal agencies, State agencies, one-call notification system operators, underground facility operators, excavators,and other interested parties, shall undertake a study of damage prevention practices associated with existing one-call notification systems.

''(b) PURPOSE OF STUDY OF DAMAGE PREVENTION PRACTICES.—The purpose of the study is to assemble information in order to determine which existing one-call notification systems practices appear to be the most effective in preventing damage to underground facilities and in protecting the public, the environment, excavators, and public service disruption. As part of the study, the Secretary shall at a minimum consider—

''(1) the methods used by one-call notification systems and others to encourage participation by excavators and owners of underground facilities;

''(2) the methods by which one-call notification systems promote awareness of their programs, including use of public service announcements and educational materials and programs;

''(3) the methods by which one-call notification systems receive and distribute information from excavators and underground facility owners;

''(4) the use of any performance and service standards to verify the effectiveness of a one-call notification system;

''(5) the effectiveness and accuracy of mapping used by one-call notification systems;

''(6) the relationship between one-call notification systems and preventing intentional damage to underground facilities;

''(7) how one-call notification systems address the need for rapid response to situations where the need to excavate is urgent;

''(8) the extent to which accidents occur due to errors in marking of underground facilities, untimely marketing or errors in the excavation process after a one-call notification system has been notified of an excavation;

''(9) the extent to which personnel engaged in marking underground facilities may be endangered;

''(10) the characteristics of damage prevention programs the Secretary believes could be relevant to the effectiveness of State one-call notification programs; and

''(11) the effectiveness of penalties and enforcement activities under State one-call notification programs in obtaining compliance with program requirements.

''(c) REPORT—Within 1 year after the date of the enactment of the Comprehensive One-Call Notification Act of 1997, the Secretary shall publish a report identifying those practices of one-call notification systems that are the most and least successful in—

''(1) preventing damage to underground facilities; and

''(2) providing effective and efficient service to excavators and underground facility operators.

The Secretary shall encourage States and operators of one-call notification programs to adopt and implement the most successful practices identified in the report.

''(d) SECRETARIAL DISCRETION—Prior to undertaking the study described in subsection (a), the Secretary shall determine whether timely information described in subsection (b) is readily available. If the Secretary determines that such information is readily available, the Secretary is not required to carry out the study.

**''§ 6106. Grants to States**

''(a) IN GENERAL.—The Secretary may make a grant of financial assistance to a State that qualifies under section 6104(b) to assist in improving—

''(1) the overall quality and effectiveness of one-call notification systems in the State;

''(2) communications systems linking one-call notification systems;

''(3) location capabilities, including training personnel and developing and using location technology;

''(4) record retention and recording capabilities for one-call notification systems;

''(5) public information and education;

''(6) participation in one-call notification systems; or

''(7) compliance and enforcement under the State one-call notification program.

''(b) STATE ACTION TAKEN INTO ACCOUNT.—In making grants under this section the Secretary shall take into consideration the commitment of each State to improving its State one-call notification program, including legislative and regulatory actions taken by the State after the date of enactment of the Comprehensive One-Call Notification Act of 1997.

''(c) FUNDING FOR ONE-CALL NOTIFICATION SYSTEMS.—A State may provide funds received under this section directly to any one-call notification system in such State that substantially adopts the best practices identified under section 6105.

**''6107. Authorization of appropriations**

''(a) FOR GRANTS TO STATES.—There are authorized to be appropriated to the Secretary in fiscal year 1999 no more than $1,000,000 and in fiscal year 2000 no more than $5,000,000, to be available until expended, to provide grants to States under section 6106.

''(b) FOR ADMINISTRATION.—There are authorized to be appropriated to the Secretary such sums as may be necessary during fiscal years 1998, 1999, and 2000 to carry out sections 6103, 6104, and 6105.

''(c) GENERAL REVENUE FUNDING.—Any sums appropriated under this section shall be derived from general revenues and may not be derived from amounts collected under section 60301 of this title.''.

(b) CONFORMING AMENDMENTS.—

(1) The analysis of chapters for subtitle III of title 49, United States Code, is amended by adding at the end thereof the following:

''CHAPTER 61—ONE-CALL NOTIFICATION PROGRAM''.

(2) Chapter 601 of title 49, United States Code, is amended

(A) by striking ''sections 60114 and'' in section 60105(a) of that chapter and inserting ''section'';

(B) by striking section 60114 and the item relating to that section in the table of sections for that chapter;

(C) by striking ''60114(c), 60118(a),'' in section 60122(a)(1) of that chapter and inserting ''60118(a),'';

(D) by striking ''60114(c) or'' in section 60123(a) of that chapter;

(E) by striking ''sections 60107 and 60114(b)'' in subsections (a) and (b) of section 60125 and inserting ''section 60107'' in each such subsection; and

(F) by striking subsection (d) of section 60125, and redesignating subsections (e) and (f) of that section as subsections (d) and (e).

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SUMMARY OF THE COMPREHENSIVE ONE-CALL NOTIFICATION ACT OF 1997

SEC. 1. SHORT TITLE

''Comprehensive One-Call Notification Act of 1997''.

SEC. 2. FINDINGS

Why the bill is important:

(1) damage to underground facilities is a leading cause of accidents;

(2) excavation without notice or inaccurate marking can cause injuries, environmental harm and disruption of services;

(3) a national effort to improve state one-call programs can enhance protection of the public and the environment.

SEC. 3. ESTABLISHMENT OF PROGRAM

*Subsection (a)*

Adds a new Chapter 61 (sections 6101–6107) to subtitle III of title 49, United States Code:

*6101. Purposes*

(1) enhance public safety;
(2) protect the environment;
(3) minimize risks to excavators; and
(4) prevent disruption of vital services;
by reducing damage to underground facilities.

*6102. Definitions*

Defines ''state one-call notification program'' and ''one-call notification system''.

*6103. Minimum Standards for State One-Call Programs*

(1) appropriate participation by all underground facility operators;
(2) appropriate participation by all excavators;
(3) flexible and effective enforcement.

''Appropriate'' determined taking into consideration the risk associated with the damage to types of facilities and the type of excavation.

State must consider risk in provisions for enforcement.

Reasonable relationship between benefits and costs of implementing and complying with one-call notification program requirements.

Voluntary participation possible for de minimum risks.

Penalties:
(1) liability for administrative or civil penalty;
(2) increased penalties for repeated damage or repeated inaccurate or untimely marking;
(3) reduced penalties for prompt reporting;
(4) equitable relief and mandamus actions;
(5) citation of violation.

*6104. Compliance with Minimum Standards*

A State may apply for a grant under section 6106 within two years after the date of enactment. The application must contain information specified by the Secretary of Transportation. Secretary reviews each application and determines whether the state one-call notification program meets the minimum standards in order to qualify for the grant. The grant application and the record of the Secretary's actions are available to the public.

State may provide greater protection than minimum federal standard.

Within three years the Secretary reports on State compliance with the Act.

*6105. Review of One-Call Systems Best Practices*

If needed, Secretary conducts a study of best practices of one-call notification systems in operation in the States. Secretary reports on best practices and promotes adoption of the most successful practices.

*6106. Grants to States*

The Secretary of Transportation may make a grant to a State if the State qualifies by having a one-call notification program meeting minimum standards. Secretary takes into consideration a State's commitment to improvement in its one-call notification program, including actions taken by the State after enactment of this legislation. State may provide funds directly to one-call notification systems that substantially adopt best practices identified under section 6105.

*6107. Authorization of Appropriations*

Authorizes $1 million in fiscal year 1999 and $5 million in fiscal year 2000 for grants to States to improve one-call notification systems. Funds available until expended. Such sums as are necessary may be appropriated for studies and administration of the Act.

All funding must come from general revenues only; no funding may be derived from pipeline user fees.

*Subsection (b)*

Strikes section 60114 of title 49, United States Code and makes resulting conforming changes. Section 60114 relates to one-call notification regulations of the Secretary of Transportation and would be superseded by enactment of this legislation.

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By Mr. ROTH:

S. 1116. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for education; to the Committee on Finance.

EDUCATION LEGISLATION

Mr. ROTH. Mr. President, the budget reconciliation package we have passed—and again, I congratulate my colleagues on such a tremendous bipartisan effort—that reconciliation package contains important measures to promote education. A full 80 percent of the tax relief we offered goes to a $500 credit for children and provisions that will promote education.

As I mentioned in my statement, I strongly supported those measures to help our young people—to help our families—pay for college. These youth are our future, and investing in them is fundamental to keeping that future bright and prosperous.

However, as I also mentioned earlier, I had hoped that we could have gone further in promoting the educational aspects of the tax relief bill.

There were a number of very innovative and very effective provisions that were contained in the Senate Finance Committee bill, but that were excluded during the conference.

For example, there was a provision to offer tax-free treatment for State-sponsored prepaid tuition plans. There was a provision for a permanent extension of employer provided education assistance. And there was also a comprehensive education IRA. Unfortunately, these were knocked out of the reconciliation package by the White House.

What I want to do now, Mr. President, is introduce these measures as a bill—a bill that will expand education IRA's to permit families to invest up to $2,000 per year toward education. These IRA's would permit withdrawals for expenses incurred during elementary and secondary school.

Second, this bill will allow employers to assist their employees' in their graduate and undergraduate education without the employees having that assistance taxed as income.

It will expand State-sponsored prepaid tuition and savings programs to permit tax-free savings for educational needs. And finally, this bill will allow universities to develop prepaid tuition and savings programs that will permit tax-free savings for tuition, fees, book, school, supplies, room, and board.

These are much needed tools to promote education. Over the past 15 years, tuition at a 4-year college has increased by 234 percent. The average student loan has increased by 367 percent. In contrast, median household income rose only 82 percent during this period, and the consumer price index only rose 74 percent.

Our students—our families—need these resources to help them meet the costs and realize the opportunities of quality education. And I encourage my colleagues to support this effort.

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By Ms. SNOWE:

S. 1117. A bill to amend Federal elections law to provide for campaign finance reform, and for other purposes; to the Committee on Rules and Administration.

CAMPAIGN FINANCE REFORM LEGISLATION

Ms. SNOWE. Mr. President, the American people are suffering a crisis of confidence when it comes to the way in which campaigns for Federal office are financed. They no longer feel that they are in control of who gets elected, or that those who do get elected are fully accountable. Today, I am introducing a bill that will restore Americans' confidence in their elected officials, and put elections back into the hands of average citizens.

Last year, for the first time since coming to Congress, I had the opportunity to watch Federal elections not as a candidate, but as a citizen and a voter. And what I saw confirmed all the reasons I have been a longtime proponent of campaign finance reform. What I saw was vast sums of money and very little accountability. I saw attack ads paid for with unlimited funds by out-of-State groups. And I saw contributions from PAC's to Federal candidates climb 12 percent higher than the record levels reached in the 1993–1994 election cycle.

And the 1996 elections were barely over when allegations of illegal and improper activities began flying, centered around the issues of so-called soft money and foreign influence peddling through campaign contributions. Subpoenas are being issued at a faster pace than Ken Griffey, Jr., hits home runs, and while it remains to be seen what the results of congressional investigations will yield, it is clear that these latest scandals only serve to further undermine public confidence and underscore the importance of enacting meaningful and achievable campaign finance reform this year.

It has often been said that perception is nine-tenths of reality, and I believe this is the case with campaign financing. I happen to believe that most elected officials are good people trying to do the people's business with America's interests at heart. At the same time, as in any walk of life, there are some people who abuse the system. And if there is even the perception that elections are being bought and sold, then the problem is serious and real—and the solution must be likewise.

And make no mistake, there is a pervasive perception that the system is out of hand and in need of fixing. A poll taken last year by a major newspaper in my home State, the Maine Sunday Telegram, showed that over 70 percent of respondents believe politicians listen more to special interests than to individual voters. Findings like this are endemic of a deep systemic problem, one that we cannot afford to ignore any longer.

I have voted for major changes in the campaign finance system throughout my career and introduced measures that I felt would make real and positive changes. Today, I am introducing the Restoration of America's Confidence in Elections Act, a comprehensive but realistic approach to fixing our broken system.

One of the chief aims of my bill is to increase the impact of the small, individual contributor in election campaigns so that we place the campaign process in the hands of average Americans—rather than in the hands of special interests. My bill will lower the amount of money a PAC could contribute from $5,000 to the limit for individual contributors, $1,000—a change which 70 percent of respondents to a recent New York Times poll say they support. It will also encourage small, individual contributors from a candidate's home State to participate by providing the incentive of a tax credit in the amount of the contribution, up to $100 for an individual or $200 in the case of a joint return.

Soft money has also become a major issue, and for good reason. It is money that skirts the intent of the law, and unaccounted for money which influences Federal campaigns above and beyond legal limits. My bill will close the soft money loophole by prohibiting national parties from raising or spending any soft money on behalf of any Federal candidates—and State parties could only spend hard money on behalf of Federal candidates. In order to keep parties healthy, individuals could contribute up to an aggregate amount of $20,000 to State party grassroots funds, and the existing limits on aggregate contributions to national parties by individuals and PAC's would be raised by $5,000 each. In that way, money is accounted for, parties can remain viable, and the soft money chase is ended.

My bill also addresses the issue of candidates facing independently wealthy opponents. As we all know, the amount of personal funds a candidate spends on his or her campaign cannot be constitutionally limited, but the playing field can and should be leveled. The perception that an individual of means can buy their way to the top of the American political arena certainly does nothing to inspire confidence in our Government.

My bill would make it easier for a candidate facing a wealthy opponent to compete by allowing that candidate to raise the necessary funding through increased contribution limits, depending on the amount the wealthy candidate spends of his or her own money. It would also require candidates to declare the amount of personal money they intend to spend, and encourage them to stick to their pledge by requiring disclosure should they violate that pledge.

Any successful campaign finance reform bill must address the realities of elections as we approach the new millennium. One of those realities is the so-called issue advocacy or voter education ads. We have all seen these ads: threatening music over provocative images blatantly designed to influence voters to vote against a candidate. But because these ads don't specifically say ''vote against candidate X'' there is currently no limit on how much can be spent on them, and no accountability.

It is obvious to anyone the purpose of these ads: to skirt current campaign finance laws that require that ads designed to influence Federal elections be paid for with hard money, and disclosed to, and regulated by, the Federal Election Commission. Under my bill, the law would be changed in such a way to include these types of ads under hard money limits and disclosure requirements. This would help limit the attack ads and give the public the information they need about who is paying for these ads and how much they are spending. An informed electorate is the key to any democratic system of government, and my bill will give people the information they need to make up their own minds.

My bill also includes provisions to protect individuals from having their money involuntarily collected and used for politics by a corporation or labor organization. These provisions mirror those of Senator NICKLES' Paycheck Protection Act. This measure will require prior authorization from workers before a corporation, national bank, or labor union finances political activities with any money from dues or from payments made as a condition of employment.

The legislation I am introducing will also close a conduit for campaign money that should have been closed a long time ago. It will ban contributions from all individuals not eligible to vote in U.S. elections. After all, if a person cannot legally participate in a Federal election by voting, why should they be able to participate with their wallet?

And finally, my bill will close the loopholes and ambiguities that exist about soliciting Federal soft money from Federal buildings or with Federal equipment. Because I think everyone agrees that it is not appropriate to raise political funds with taxpayer-financed equipment, or from the very office that might have influence over the interests of the potential donor.

These are all commonsense approaches to the problem—measures which I believe the majority of Americans feel are sensible and long overdue. The Restoration of Americans' Confidence in Elections Act addresses a range of issues and does so in a way that does not single out any one group, or any particular political affiliation. Because if we are to pass meaningful reform, it will require that we all take our hits.

I urge my colleagues to join me in passing this bill, and making a historic statement that the old ways of doing business must be relegated to the annals of history. Let's return elections to the American people—and let's restore confidence in our Government.

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By Mr. MURKOWSKI:

S. 1118. A bill to amend the Land and Water Conservation Fund for purposes of establishing a Community Recreation and Conservation Endowment with certain escrowed oil and gas revenues; to the Committee on Energy and Natural Resources.

THE COMMUNITY RECREATION AND CONSERVATION ENDOWMENT ACT OF 1997

Mr. MURKOWSKI. Mr. President, I rise to introduce the Community Recreation and Conservation Endowment Act of 1997. My bill provides a long-term funding source for the State-side matching grant program of the Land and Water Conservation Fund Act.

Thank you to Senate appropriators for honoring my request to fund the LWCF matching grants. The 1998 Interior appropriation bill ensures the programs's short-term viability. I wish we could have earmarked more, but I understand the challenges members face and thank them for their accomplishment. Special thanks to Senators TED STEVENS and SLADE GORTON.

I am confident we can win on the Senate floor, in conference and with the administration because the program is truly worthy.

The LWCF matching grants have helped build thousands of miles of trails, protect thousands of acres of open space, and develop parks, campgrounds, and recreation facilities in every State.

Every Federal dollar has been matched—we get two for the price of one. Unfortunately, Congress and the administration defunded the program 2 years ago.

That's too bad, given what candidate Bill Clinton said: ''I would increase funding for several programs * * * and reinvigorate the Land and Water Conservation Fund to make more funds available for the acquisition of public outdoor open spaces''.

He also said, ''I would also make funds available from the Land and Water Conservation Fund to help address critical infrastructure needs in state and local facilities.''

The millions of Americans who benefit from the matching grants need more than promises. Thankfully, the Interior appropriations bill saves the program for the short term. I am here today to offer a long-term solution.

At a recent hearing before the Senate parks subcommittee, former Park Service Director Roger Kennedy said

that as long as there is competition between Federal and State programs for LWCF appropriations, the State matching grants will lose. He suggested a separate source of funds.

I am taking his advice to heart, and calling upon Congress to establish a separate and permanent fund for State matching grants.

My legislation creates an $800 million permanent endowment to provide LWCF matching grants to the States. Interest from that account will help provide parks, campgrounds, trails, and recreation facilities for millions of Americans. It will also help preserve open spaces for the future.

Where does that money come from? On June 19, 1997, the Supreme Court ruled the Federal Government retains title to lands underlying tidal waters off Alaska's North Slope. As the result, the government will receive $1.6 billion in escrowed oil and gas lease revenues.

This sum is twice the amount the Congressional Budget Office estimated for the concurrent budget resolution. My bill places this bonus $800 million in a permanent endowment account.

This new approach is consistent with the vision of the Land and Water Conservation Fund Act and a promise made to the American people 30 years ago.

Our Government promised us that a portion of proceeds from offshore oil and gas leases would fund outdoor recreation and conservation. My bill makes good on that promise—permanently. It makes sure the State grants are never forgotten again.

That sound we hear on the doors to this Chamber is opportunity knocking. We must seize the opportunity and use those funds to renew and reinvigorate the bipartisan vision of the LWCF.

I urge my colleagues to join me in this endeavor and support the Community Recreation and Conservation Endowment Act of 1997.

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By Mr. ABRAHAM:

S. 1119. A bill to amend the Perishable Agricultural Commodities Act, 1930 to increase the penalty under certain circumstances for commission merchants, dealers, or brokers who misrepresent the country of origin or other characteristics of perishable agricultural commodities; to the Committee on Agriculture, Nutrition, and Forestry.

FOOD SAFETY LEGISLATION

Mr. ABRAHAM. Mr. President, in March of this year, over 200 schoolchildren in my State contracted the hepatitis A virus from food served by the school lunch program. As news of the outbreak began to pour in, the Michigan Department of Community Health and the Centers for Disease Control went into action to determine the cause. They soon found the culprit: Frozen strawberries sold to the school lunch program by a San Diego company named Andrews and Williamson. Investigators also discovered that some of the strawberries sold to the school lunch program had been illegally certified as domestically grown when, in fact, they had been grown in Mexico.

There does not currently exist a method for testing strawberries for the hepatitis A virus. Thus, we may never know whether the strawberries brought in from Mexico were the source of this pathogen. Given the growing conditions that USDA investigators found at the farm, however, the likelihood is strong.

And one thing we do know, Mr. President, is that these strawberries should never have been served in the school lunch program in the first place. By law, products sold to the school lunch program must be certified as being domestically grown. Unfortunately, because the USDA lacks the resources to effectively enforce this requirement, companies have typically been trusted to do the right thing. Andrews and Williamson chose to do something else. They chose to break the law by misrepresenting their product's country-of-origin, and over 200 people were poisoned as a result.

This dangerous incident, the poisoning of Michigan children by their own school lunch program, compelled and received my immediate involvement. Shortly after the outbreak, I called for, and was granted, a hearing on the matter. I arranged to have officials from the CDC come to my state to brief the families of those affected. During this process I learned of the similar efforts being made by a private organization called Safe Tables Our Priority [STOP]. Their assistance throughout this process has been invaluable.

One of the first things I learned while studying this issue was that a specific statute exists which states that misrepresenting the country-of-origin of a perishable good is a crime. Unfortunately, the penalty for such fraud is a $2,000 fine and possible loss of license; a rather small price to pay for poisoning over 200 people.

Of course, this does not mean that A&W will walk away from this incident without paying a price. After reviewing the case made by investigators from the USDA, the U.S. Attorneys Office filed 47 charges against A&W. The first charge is conspiracy to defraud the United States. Counts two, three and four are for making false statements, and counts five through forty-seven are for making false claims. For each of these counts, the maximum penalty is 5 years and/or $250,000 per count or $500,000 for a corporation.

I state these charges because they do not include any mention of the specific crime which A&W is accused of violating, namely, misrepresenting the country-of-origin for a perishable food. Well, Mr. President, I intend to rectify this oversight. Today I am introducing legislation which modifies current law such that an intentional misrepresentation of the origin, kind or character of any perishable commodity, the reckless disregard of the effects on the public safety of such action, or violations which result in serious injury, illness or death will constitute a felony with a maximum penalty of five years imprisonment and/or a fine of $250,000 per count.

This change in law will ensure that individuals who intentionally misrepresent their goods will now suffer the appropriate consequences of their actions. The recent outbreaks of hepatitis A, Cyclospora and E Coli demonstrate that a new commitment to food safety is sorely needed in this country. I will continue working to see that Congress takes the appropriate measures to assist the USDA, FDA and Centers for Disease Control in their efforts to keep America's food supply the safest in the world.

Mr. President, I ask consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1119

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. MISREPRESENTATION OF COUNTRY OF ORIGIN OR OTHER CHARACTERISTICS OF PERISHABLE AGRICULTURAL COMMODITIES.**

Section 2(5) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499b(5)), is amended by adding at the end the following: ''If a court of competent jurisdiction finds that a person has intentionally, or with reckless disregard, engaged in a misrepresentation described in this paragraph and the misrepresentation resulted in a serious bodily injury (as defined in section 1365(g) of title 18, United States Code) to, or death of, an individual, the person shall be guilty of a Class D felony that is punishable under title 18, United States Code.''

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By Mr. HATCH (for himself, Mr. LEAHY, Mr. THOMPSON, and Mr. KOHL):

S. 1121. A bill to amend Title 17 to implement the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty; to the Committee on the Judiciary.

THE WIPO COPYRIGHT AND PERFORMANCE AND PHONOGRAMS TREATY IMPLEMENTATION ACT OF 1997

Mr. HATCH. Mr. President, today I am introducing legislation proposed by the Clinton administration to implement two important treaties that were adopted last December by the World Intellectual Property Organization (WIPO). The distinguished Ranking Member of the Judiciary Committee, Sen. LEAHY, the distinguished Senator for Tennessee, Sen. THOMPSON, and the distinguished Senator from Wisconsin, Sen. KOHL, join me as original cosponsors. I strongly support adoption of the treaties, and I am introducing this bill on behalf of the Administration as an essential step in that process. I believe that the Administration's bill provides an excellent starting point for the debate on exactly what must be changed in U.S. law in order to comply with the treaties.

The WIPO Copyright Treaty and the WIPO performances and Phonograms

Treaty—completed after years of intense lobbying by the United States government—will update international copyright law for the digital age and ensure the protection of American creative products abroad. I want to commend Secretary of Commerce Bill Daley, Commissioner of Patents and Trademarks Bruce Lehman, and their staffs for their efforts in moving this important issue forward, and I welcome the opportunity to work with them during the legislative process.

The United States leads the world in the production of creative works and high-technology products—including software, movies, recordings, music, books, video games, and information. Copyright industries represent nearly 6% of the U.S. gross domestic product, and nearly 5% of U.S. employment. Yet American companies lose $18–20 billion every year due to international piracy of copyrighted works. The film industry alone estimates its annual losses due to counterfeiting in excess of $2.3 billion, even though full-length motion pictures are not yet available on the Internet. The recording industry estimates that it looses more than $1.2 billion each year due to piracy, with seizures of bootleg CDS up some 1,300 percent in 1995. These figures will only continue to grow with the recent technological developments that permit creative products to be pirated and distributed globally with the touch of a button, significantly weakening international protection for the copyrighted works that are such a critical part of this country's economic backbone and costing the U.S. economy exports and jobs.

The WIPO treaties will raise the minimum standards for copyright protection worldwide, providing the U.S. with the tools it needs to combat international piracy. But the treaties will be meaningless unless they are ratified by a large number of countries. It is therefore up to the United States to demonstrate leadership on this issue by ratifying and implementing the treaties promptly. Swift U.S. action will encourage global implementation of the WIPO treaties, and will signal U.S. determination to curb the threat that international piracy poses to U.S. jobs and the economy.

This bill takes the approach that the substantive protections in U.S. copyright law already meet the standards of the new WIPO treaties, and therefore very few changes to U.S. law are necessary in order to implement the treaties. In addition to minimal technical amendments, the treaties require signatory countries to provide legal protections against the circumvention of certain technologies that copyright owners use to protect their works and to guard against the alteration or falsification of identifying data known as copyright management information (CMI).

This ''minimalist'' bill is the product of much hard work by the Administration, and represents many months of negotiations among interested parties, including software companies, computer manufacturers, and the copyright community. This bill is a compromise; it does not represent any group's ''wish list'' for WIPO implementing legislation. The Administration has tried to craft a bill that addresses only those issues required by the treaties without altering the substantive protections and exceptions provided under U.S. copyright law or injecting extraneous issues into the treaty process. The Administration has tried to preserve the delicate balance that U.S. law already strikes between copyright owners and users, since the WIPO treaties were not intended to upset that balance.

I urge my colleagues to give this legislation serious consideration. The Judiciary Committee will begin hearings on this bill shortly. I would like to see the treaties go into effect this year, and I will try hard to meet this goal. However, the late date on which the Administration has submitted the legislation may render this goal unachievable.

In any event, we must act promptly to ratify and implement the WIPO treaties in order to demonstrate leadership on international copyright protection, so that the WIPO treaties can be implemented globally and so that further theft of our nation's most valuable creative products may be prevented.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1121

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''WIPO Copyright and Performances and Phonograms Treaty Implementation Act of 1997''.

**SEC. 2. TECHNICAL AMENDMENTS.**

(a) Section 101 of Title 17, United States Code is amended—

(1) by deleting the definition of ''Berne Convention work'';

(2) in the definition of ''The 'country of origin; of a Berne Convention work,'' by deleting ''The 'country of origin; of a Berne Convention work,'', capitalizing the first letter of the word ''for'', deleting ''is the United States'' after ''For purposes of section 411,'', and inserting ''a work is a 'United States work' only'' after ''For purposes of section 411,'',

(3) in subsection (1)(B) of the definition of ''The 'country' of a Berne Convention work'', by inserting ''treaty party of parties'' and deleting ''nation of nations adhering to the Berne Convention'';

(4) in subsection (1)(C) of the definition of ''The 'country of origin' of a Berne Convention work'', by inserting ''is not a treaty party'' and deleting ''does not adhere to the Berne Convention'';

(5) in subsection (1)(D) of the definition of ''The 'country of origin' of a Berne Convention work'', by inserting ''is not a treaty party'' and deleting ''does not adhere to the Berne Convention'';

(6) in section (3) of the definition of ''The 'country of origin' of a Berne Convention work'', by deleting ''For the purposes of section 411, the 'country of origin' of any other Berne Convention work is not the United States'';

(7) after the definition for ''fixed'', by inserting ''The 'Gevena Phonograms Convention' is the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms, concluded at Geneva, Switzerland on October 29, 1971.'';

(8) after the definition for ''including''; by inserting ''An 'international agreement' is—

''(1) the Universal Copyright Convention;

''(2) the Geneva Phonograms Convention;

''(3) the Berne Convention;

''(4) the WTO Agreement;

''(5) the WIPO Copyright Treaty;

''(6) the WIPO Performances and Phonograms Treaty; and

''(7) any other copyright treaty to which the United States is a party,'';

(9) after the definition for ''transmit'', by inserting ''A 'treaty party' is a country or intergovernmental organization other than the United States that is a party to an international agreement.'';

(10) after the definition for ''widow'', by inserting ''The 'WIPO Copyright Treaty' is the WIPO Copyright Treaty concluded at Geneva, Switzerland, on December 20, 1996.'';

(11) after the definition for ''The 'WIPO Copyright Treaty''', by inserting ''The 'WIPO Performances and Phonograms Treaty' is the WIPO Performances and Phonograms Treaty concluded at Geneva, Switzerland on December 20, 1996.'', and

(2) by inserting, after the definition for ''work for hire'', ''The 'WTO Agreement' is the Agreement Establishing the World Trade Organization entered into on April 15, 1994. The terms ''WTO Agreement'' and ''WTO member country'' have the meanings given those terms in paragraph (9) and (10) respectively of section 2 of the Uruguay Round Agreements Act.''

(b) Section 104 of Title 17, United States Code is amended—

(1) in section (b)(1) by deleting ''foreign nation that is a party to a copyright treaty to which the United States is also a party'' and inserting ''treaty party'';

(2) in section (b)(2) by deleting ''party to the Universal Copyright Convention'' and inserting ''treaty party'';

(3) by renumbering the present section (b)(3) as (b)(5) and moving it to its proper sequential location and inserting a new section (b)(3) and to read:

''(3) the work is a sound recording that was first fixed in a treaty party; or '';

(4) in section (b)(4) by deleting ''Berne Convention work'' and inserting ''pictorial, graphic or sculptural work that is incorporated in a building or other structure, or an architectural work that is embodied in a building and the building or structure is located in the United States or a treaty party'';

(5) by renumbering present section (b)(5) as (b)(6),

(6) by inserting a new section (b)(7) to read:

''For purposes of paragraph (2), a work that is published in the United States or a treaty party within thirty days of publication in foreign nation that is not a treaty party shall be considered first published in the United States or such treaty party as the case may be.'';

and

(7) by inserting a new section (d) to read:

''(d) Effect of Phonograms Treaties.—Notwithstanding the provisions of subsection (b), no works other than sound recordings shall be eligible for protection under this

title solely by virtue of the adherence of the United States to the Geneva Phonograms Convention or the WIPO Performances and Phonograms Treaty.''.

(c) Section 104A(h) of Title 17, United States Code, is amended—

(1) in paragraph (1), by deleting ''(A) a nation adhering to the Berne Convention or a WTO member country, or (B) subject to a Presidential proclamation under subsection (g),'' and inserting

''(A) a nation adhering to the Berne Convention,

''(B) a WTO member country;

''(C) a national adhering to the WIPO Copyright Treaty;

''(D) a nation adhering to the WIPO Performance and Phonograms Treaty, or

''(E) subject to a Presidential proclamation under subsection (g)'';

(2) paragraph (3) is amended to read as follows—

''(3) the term ''eligible country'' means a nation, other than the United States that—

''(A) becomes a WTO member country after the date of enactment of the Uruguay Round Agreements Act;

''(B) on the date of enactment is, or after the date of enactment becomes, a nation adhering to the Berne Convention;

''(C) adheres to the WIPO Copyright Treaty;

''(D) adheres to the WIPO Performances and Phonograms Treaty; or

''(E) after such date of enactment becomes subject to a proclamation under subsection (g)'';

(3) in paragraph (6)(C)(iii), by deleting ''and'' after ''eligibility'';

(4) at the end of paragraph (6)(D), by deleting the period and inserting ''; and'';

(5) by adding the following new paragraph (6)(E):

''(E) if the source country for the work is an eligible country solely by virtue of its adherence to the WIPO Performances and Phonograms Treaty, is a sound recording'',

(6) in paragraph (8)(B)(i), by inserting ''of which'' before ''the majority'' and striking ''of eligible countries''; and

(7) by deleting paragraph (9).

(d) Section 411 of Title 17, United States Code, is amended—

(1) in subsection (a), by deleting ''actions for infringement of copyright in Berne Convention works whose country of origin is not the United States and''; and

(2) in subsection (a), by inserting ''United States'' after ''no action for infringement of the copyright in any''.

(e) Section 507(a) of title 17, United States Code, is amended by adding at the beginning, ''Except as expressly provided elsewhere in this title.

**SEC. 3. COPYRIGHT PROTECTION SYSTEMS AND COPYRIGHT MANAGEMENT INFORMATION.**

Title 17, United States code, is amended by adding the following new chapter: ''Chapter 12.—COPYRIGHT PROTECTION AND MANAGEMENT SYSTEMS



**''§ 1201. Circumvention of Copyright Protection Systems**

''(a)(1) No person shall circumvent a technological protection measure that effectively controls access to a work protected under title 17.

''(2) No person shall manufacture, import, offer to the public, provide or otherwise traffic in any technology, product, service, device, component, or part thereof that

''(A) is primarily designed or produced for the purpose of circumventing a technological protection measure that effectively controls access to a work protected under Title 17,

''(B) has only limited commercially significant purpose or use other than to circumvent a technological protection measure that effectively controls access to a work protected under Title 17, or

''(C) is marketed by that person or another acting in concert with that person for use in circumventing a technological protection measure that effectively controls access to a work protected under Title 17.

''(3) As used in this subsection,

''(A) 'circumvent a technological protection measure' means to descramble a scrambled work, to decrypt an encrypted work, or otherwise to avoid, bypass, remove, deactivate, or impair a technological protection measure, without the authority of the copyright owner.

''(B) a technological protection measure 'effectively controls access to a work' if the measure, in the ordinary course of its operation, requires the application of information, or a process or a treatment, with the authority of the copyright owner, to gain access to the work.

''(b)(1) No person shall manufacture, import, offer to the public, provide or otherwise traffic in any technology, product, service, device, component, or part thereof that

''(A) is primarily designed or produced for the purpose of circumventing protection afforded by a technological protection measure that effectively protects a right of a copyright owner under Title 17 in a work or a portion thereof,

''(B) has only limited commercially significant purpose or use other than to circumvent protection afforded by a technological protection measure that effectively protects a right of a copyright owner under Title 17 in a work or a portion thereof, or

''(C) is marketed by that person or another acting in concert with that person for use in circumventing protection afforded by a technological protection measure that effectively protects a right of a copyright owner under Title 17 in a work or a portion thereof.

''(2) As used in this subsection,

''(A) 'circumvent protection afforded by a technological protection measure' means avoiding, bypassing removing, deactivating, or otherwise impairing a technological protection measure;

''(B) a technological protection measure 'effectively protects a right of a copyright owner under Title 17' if the measure, in the ordinary course of its operation, prevents, restricts, or otherwise limits the exercise of a right of a copyright owner under Title 17.

''(c) The importation into the United States, the sale for importation, or the sale within the United States after importation by the owner, importer or consignee of any technology, product, service, device, component, or part thereof as described in this section shall be actionable under section 1337 of Title 19.

''(d) Nothing in this section shall affect rights, remedies, limitations, or defenses to copyright infringement, including fair use, under Title 17.

''(e) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States.

**''§ 1202. Integrity of Copyright Management Information**

''(a) FALSE COPYRIGHT MANAGEMENT INFORMATION.—No person shall knowingly—

(1) provide copyright management information that is false, or

(2) distribute or import for distribution copyright management information that is false, with the intent to induce, enable, facilitate or conceal an infringement of any right under Title 17.

''(b) REMOVAL OR ALTERATION OF COPYRIGHT MANAGEMENT INFORMATION.—No person shall, without the authority of the copyright owner or the law—

''(1) intentionally remove or alter any copyright management information,

''(2) distribute or import for distribution copyright management information knowing that the copyright management information has been removed or altered without authority of the copyright owner or the law, or

''(3) distribute, import for distribution, or publicly perform works, copies of works, or phonorecords knowing that copyright management information has been removed or altered without authority of the copyright owner or the law,

knowing, or, with respect to civil remedies under section 1203, having reasonable grounds to know, that it will induce, enable, facilitate or conceal an infringement of any right under Title 17.

''(c) DEFINITION.—As used in this chapter, 'copyright management information; means the following information conveyed in connection with copies or phonorecords of a work or performances or displays of a work, including in digital form:

''(1) The title and other information identifying the work, including the information set forth on a notice of copyright;

''(2) The name of, and other identifying information about, the author of a work;

''(3) The name of, and other identifying information about, the copyright owner of the work, including the information set forth in a notice of copyright;

''(4) Terms and conditions for use of the work;

''(5) Identifying numbers or symbols referring to such information or links to such information; or

''(6) Such other information as the Register of Copyrights may prescribe by regulation, except that the Register of Copyrights may not require the provision of any information concerning the user of a copyrighted work.''

''(d) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States.

**''§ 1203. Civil Remedies**

''(a) CIVIL ACTION.—Any person injured by a violation of section 1201 or 1202 may bring a civil action in an appropriate United States district court for such violation.

''(b) POWERS OF THE COURT.—In an action brought under subsection (a), the court—

''(1) may grant temporary and permanent injunctions on such terms as it deems reasonable to prevent or restrain a violation;

''(2) at any time while an action in pending, may order the impounding, on such terms as it deems reasonable, of any device or product that is in the custody or control of the alleged violator and that the court has reasonable cause to believe was involved in a violation;

''(3) may award damages under subsection (c);

''(4) in its discretion may allow the recovery of costs by or against any party other than the United States or an officer thereof.

''(5) in its discretion may award reasonable attorney's fees to the prevailing party; and

''(6) may, as part of a final judgment or decree finding a violation, order the remedial modification or the destruction of any device

or product involved in the violation that is in the custody or control of the violator or has been impounded under subsection (2).

''(c) AWARD OF DAMAGES.—

''(1) IN GENERAL.—Except as otherwise provided in this chapter, a person committing a violation of section 1201 or 1202 is liable for either—

''(A) the actual damages and any additional profits of the violator, as provided by subsection (2), or

''(B) statutory damages, as provided by subsection (3).

''(2) ACTUAL DAMAGES.—The court shall award to the complaining party the actual damages suffered by the party as a result of the violation, and any profits of the violator that are attributable to the violation and are not taken into account in computing the actual damages, if the complaining party elects such damages at any time before final judgment is entered.

''(3) STATUTORY DAMAGES.—

''(A) At any time before final judgment is entered, a complaining party may elect to recover an award of statutory damages for each violation of section 1201 in the sum of not less than $200 or more than $2,500 per act of circumvention device, product, component, offer or performance of service, as the court considers just.

''(B) At any time before final judgment is entered, a complaining party may elect to recover an award of statutory damages for each violation of section 1202 in the sum of not less than $2,500 or more than $25,000.

''(4) REPEATED VIOLATIONS.—In any case in which the injured party sustains the burden of proving, and the court finds, that a person has violated section 1201 or 1202 within three years after a final judgment was entered against the person for another such violation, the court may increase the award of damages up to triple the amount that would otherwise be awarded, as the court considers just.

''(5) INNOCENT VIOLATIONS.—The court in its discretion may reduce or remit the total award of damages in any case in which the violator sustains the burden of proving, and the court finds, that the violator was not aware and had no reason to believe that its acts constituted a violation.

**''§ 1204. Criminal Offenses and Penalties.**

''(a) Any person who violates section 1201 or 1202 willfully and for purposes of commercial advantage or private financial gain shall be fined not more than $500,000 or imprisoned for not more than 5 years, or both for the first offense and shall be fined not more than $1,000,000 or imprisoned for not more than 10 years, or both for any subsequent offense.''

''(b) Notwithstanding section 507(a) of this title, no criminal proceeding shall be brought under section 1204 unless such proceeding is commenced within five years after the cause of action arose.''

**SEC. 4. CONFORMING AMENDMENTS.**

The table of chapters for Title 17, United States Code, is amended by adding at the end the following:

''12. COPYRIGHT PROTECTION AND MANAGEMENT SYSTEMS .... *1201''.*

**SEC. 5. EFFECTIVE DATE.**

The amendments made by this Act shall take effect on the date of the enactment of this Act, except clause (5) of the definition of ''international agreement'' as amended by section 2(a)(8) of this Act, section 2(a)(10) of this Act, clause (C) of section 104(h)(1) of Title 17 as amended by section 2(c)(1) of this Act and clause (C) of section 104(h)(3) of Title 17 as amended by section 2(c)(2) of this Act shall take effect upon entry into force of the WIPO Copyright Treaty with respect to the United States, and clause (6) of the definition of ''international agreement'' as amended by section 2(a)(8) of this Act, section 2(a)(11) of this Act, section 2(b)(7) of this Act, clause (D) of section 104A(h)(1) of Title 17 as amended by section 2(c)(2) of this Act, and sections 2(c)(4) and 2(c)(5) of this Act shall take effect upon entry into force of the WIPO Performances and Phonograms Treaty with respect to the United States.

Mr. LEAHY. Mr. President, the successful adoption by the World Intellectual Property Organization [WIPO] of two new copyright treaties—one on written material and one on sound recordings—in Geneva last December was appropriately lauded in the United States. The WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty will give a significant boost to the protection of intellectual property rights around the world, and stand to benefit important American creative industries—from movies, recordings, computer software and many other copyrighted materials that are subject to piracy on-line.

According to Secretary Daley of the Department of Commerce, for the most part, ''the treaties largely incorporate intellectual property norms that are already part of U.S. law.'' What the treaties will do is give American owners of copyrighted material an important tool to protect their intellectual property in those countries that become a party to the treaties. With an ever-expanding global marketplace, such international protection is critical to protect American companies and, ultimately, American jobs and the U.S. economy.

Over the past few months, I spoke and wrote to Secretary Daley urging him to transmit without delay the administration's proposal for implementing legislation. I am very pleased that earlier this week, the administration did so. The legislative package we received is an excellent start for moving forward, and I commend the administration, Secretary Daley and, in particular, Assistant Secretary Bruce Lehman of the Patent and Trademark Office for their hard work on this proposal.

I am glad to introduce this legislation, with Senator HATCH, on behalf of the administration. I hope we will take this matter up for hearings and further deliberation and action promptly after the recess.

In sum, this bill makes certain technical changes to conform our copyright laws to the treaties and substantive amendments to comply with two new Treaty obligations. Specifically, the treaties oblige the signatories to provide legal protections against circumvention of technological measures used by copyright owners to protect their works, and against violations of the integrity of copyright management information [CMI], which identifies a work, its author, the copyright owners and any information about the terms and conditions of use of the work. The bill adds a new chapter to U.S. copyright law to implement the anti-circumvention and CMI provisions, along with corresponding civil and criminal penalties.

Technological developments, such as the development of the Internet and remote computer information data bases, are leading to important advancements in accessibility and affordability of art, literature, music, film and information and services for all Americans. As Vinton Cerf, the coinventor of the computer networking protocol for the Internet, recently stated in The New York Times:

> The Internet is now perhaps the most global and democratic form of communications. No other medium can so easily render outdated our traditional distinctions among localities, regions and nations.

We see opportunities to break through barriers previously facing those living in rural settings and those with physical disabilities. Democratic values can be served by making more information and services available.

These methods of distribution also dramatically affect the role of copyright. Properly balancing copyright interests to encourage and reward creativity, while serving the needs of public access to works, can be a challenge. The public interest requires the consideration and balancing of such interests. In the area of creative rights that balance has rested on encouraging creativity by ensuring rights that reward it while encouraging its public performance, distribution and display.

I was glad to have played a role in the development and enactment of the Digital Performance Right in Sound Recording Act, Public Law 104–39. That legislation served in many respects as the precursor to the WIPO Treaty on performance rights adopted last December. Performance rights for sound recordings is an issue that has been in dispute for over 20 years. I was delighted in 1995 when we were finally able to enact a U.S. law establishing that right.

I believe that musicians, singers and featured performers on recordings ought to be compensated like other creative artists for the public performances of works that they create and that we all enjoy. I wanted companies that export American music not to be disadvantaged internationally by the lack of U.S. recognition of such a performance right. Most of all, I wanted to be sure that our laws be fair to all parties—to performers, musicians, songwriters, music publishers, performing rights societies, emerging companies expanding new technologies, and, in particular, consumers and the public.

I am glad to have been able to play a role in redesigning the performance right in sound recording law to meet these objectives. Our substitute, which was ultimately enacted, preserved existing rights, encouraged the development of new technologies, and promoted competition as the best protection for consumers. Working with Senator THURMOND, then chairman of the Antitrust Subcommittee, and with the

help of the Antitrust Division of the Department of Justice, we were able to strengthen the bill in significant regard. I was pleased to cosponsor the substitute and to work for its passage.

I have also been supportive of copyright protection and anticircumvention legislation over the past several years and been working on ways to utilize copyright management information to protect and inform consumers.

I anticipate that at Judiciary Committee hearings on this important measure, we will examine the impact of the treaties and this implementing legislation, both domestically and internationally, on the careful balance we always strive to maintain between the authors' interest in protection along with the public's interest in the accessibility of information.

Ours is a time of unprecedented challenge to copyright protection. Copyright has been the engine that has traditionally converted the energy of artistic creativity into publicly available arts and entertainment. Historically, the Government's role has been to encourage creativity and innovation by protecting copyrights that create incentives for the dissemination to the public of new works and forms of expression. That is the tradition which I intend to continue.

Mr. KOHL. Mr. President, along with my colleagues, Senators HATCH and LEAHY, I rise in support in the WIPO Copyright and Performances and Phonograms Treaty Implementation Act of 1997. This proposal, while clearly not a final product, is nevertheless an important step forward in our ongoing battle against illegal copying of protected works—such as movies, books, musical recordings, and software. Let me also commend the administration, especially the Commerce Department and the Patent and Trademark Office, for their hard work in pushing for the underlying treaty and assembling a workable proposal to ensure the value of intellectual property.

What makes this legislation so important to our economy? Consider that the copyright industries had over $53 billion in foreign sales in 1995, surpassing every other export industry except automobiles and agriculture. Also consider that the copyright industries employ nearly 6 million people in the United States, or about 4.8 percent of our work force. But despite the tremendous contribution these businesses make to our economy, we still lose more than $15 billion each year due to foreign copyright piracy, according to some estimates. That is not only wrong; it is unacceptable.

Mr. President, we need to maintain our status as an international leader in the fight against illegal copying because many nations look to us for guidance in setting their own standards for copyright protection. And we need to show strong leadership in this area because, otherwise, some nations with troubling histories of copyright piracy will be even less likely to improve their records. This proposal moves us in the right direction.

Some of my colleagues may remember back in 1991 when I introduced similar legislation, the Motion Picture Anti-Piracy Act, to deal with the problem of video bootlegging. Although today's technology is more advanced than in 1991, the problem of unauthorized copying remains. Indeed, it has in some respects grown even worse. The spread of copying technology worldwide, including piracy that takes place with the touch of a button over the Internet, begins to explain the scope of this problem. And because the piracy problem extends across national borders, the best way to address unauthorized copying is through international agreements that go after devices deliberately designed to circumvent technological protection measures.

Mr. President, this bill generally takes the right approach. It makes it illegal to circumvent various copyright protection systems, it protects the integrity of copyright management information, and it provides for both civil and criminal penalties to deter potential violators. Some have suggested that it goes too far, while others argue that the bill does not go far enough. In any event, we should view this proposal as a point of departure rather than a final product. And we should make certain, as the measure moves forward, that it doesn't restrict products that have other beneficial uses.

Mr. President, let me make one additional point. The bill does not address the issue of online service provider liability. This issue needs to be discussed and resolved, whether as part of this legislation or separately. But it shouldn't slow down the consideration of the bill we have before us. The WIPO Implementation Act is a significant step in curbing illegal copying, and I urge my colleagues to join me in supporting it.

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By Mr. KOHL (for himself, Mr. GRASSLEY, and Mr. REID):

S. 1122. A bill to establish a national registry of abusive and criminal patient care workers and to require criminal background checks of patient care workers; to the Committee on Finance.

THE PATIENT ABUSE PREVENTION ACT

Mr. KOHL. Mr. President, I rise to introduce the Patient Abuse Prevention Act, a bill to establish greater safeguards in our health care system for vulnerable Americans. I am pleased to be joined in offering this bill by Senate Committee on Aging Chairman CHARLES GRASSLEY and Senator HARRY REID.

One of the most difficult times for any family is when a senior or disabled member enters a long-term care arrangement. That family should not also be faced with the worry that the long-term care facility or its staff may pose a threat.

Whatever health care setting a family chooses, whether institutional or community-based, there should be assurances that care will be provided by trained and compassionate professionals.

Thankfully, that is the case in most facilities. But in a few cases—and that is a few cases too many—a long-term care facility hires someone who doesn't have the best interests of the patient in mind.

A disturbing number of cases have been reported where health care workers with criminal backgrounds have been cleared to work in a long-term care facility and have abused patients in their care. If only greater attention was given to discovering the background of these applicants, the abuses may have been prevented.

A recent report from the Nation's long-term care ombudsmen indicates that, in 29 States surveyed, 7,043 cases of abuse, gross neglect or exploitation occurred in nursing homes and board and care facilities.

According to a random-sample survey of nursing home staff, 10 percent admitted committing at least one act of physical abuse in the preceding year, and 40 percent committed psychological abuse. Thirty-six percent of the sample had seen at least one incident of physical abuse in the preceding year by other staff members.

These statistics may only scratch the surface of the problem. It's quite likely that the incidence of abuse is far more prevalent. In fact, the Office of Inspector General at the Department of Health and Human Services has reported that 46 percent of respondents questioned believed abuse is only sometimes or rarely reported.

Mr. President, the vast majority of health care facilities and their employees are dedicated and work hard under stressful conditions to provide the best care possible. But it only takes a few abusive staff to cast a dark shadow over what should be a healing environment.

Although some facilities run thorough background checks on prospective employees, most do not. And even if they wanted to run more complete checks, facilities are prevented due to a fractured and inefficient system.

It is far too easy for a health care worker with a criminal or abusive background to gain employment and prey on the most vulnerable patients.

Why is this? Because current State and national safeguards are inadequate to screen out abusive workers. All States are required to maintain nurse aide registries, but these registries are not comprehensive or efficiently maintained.

Many States limit their registries to nursing home aides, failing to cover home health aides, assisted living workers and hospital aides. Most States don't require criminal background checks of long-term care workers. Further, due to hit and miss investigations, many reports of abuse fall through the cracks.

The problem I find most troubling is the lack of information sharing between States about known criminal

and abusive workers. There are no Federal requirements or guidelines on information sharing about abusive workers—even those who have been convicted in a court of law.

Because no national registry of abusive health care workers exists, people with histories of abuse or serious crimes in one State can simply travel to another State to find work. These workers can also move from a nursing home to home health agencies or to hospitals without ever undergoing a complete background check.

Problems also exist with reporting abuse. Rather than going through the trouble of making a report and drawing possible unwanted attention, a facility often will dismiss a worker without a report ever filed. Further, States hesitate to document problem workers due to the fact that a listing means barring a worker from nursing homes for life.

Much of the public scrutiny on patient abuse has focused on nursing homes. But this is not the only care setting that should have increased protections. Home health care has been dramatically growing as a preferred long-term care option. Yet, protections for home care recipients are even more lax than those for nursing home residents.

While I am pleased to report that some States, including Wisconsin, have begun working to establish criminal background checks and improve their registries, it is clear that effective national protections must be in place to fill the gaps in the system.

The legislation I offer today builds on recommendations by State ombudsmen programs who are the watch guards for long-term care residents. This effort is also in response to calls from consumer groups and the long-term care industry for a streamlined, accurate way to screen potential workers for abusive or criminal histories.

The Patient Abuse Prevention Act creates a national registry of abusive health care workers and requires criminal background checks for those entrusted to care for vulnerable patients.

This would enable States and employers—either by computer or by phone—to check if a potential employee has a criminal record or other problem in their past that should preclude them from caring for the infirm.

The national registry would also create a coordinated information network between States so that violators could not simply travel to another state to find work in a nursing home or other setting.

By far, the best way to stop abuse is to address the situations that lead to problem behaviors. Most studies that have looked into patient abuse indicate that better training would make a big difference. Therefore, this bill creates a demonstration program to investigate best practices in patient abuse prevention. What we learn from this program can then be disseminated by the Department of Health and Human Services and made available to all health care settings.

Mr. President, when a patient moves into a nursing home, or hires a home health care agency, they are entrusting that company with an enormous responsibility.

Any instance of patient abuse is intolerable and inadequate background checks of health care workers is inexcusable.

I believe that protecting our Nation's elderly and infirm Americans from abuse, neglect, and mistreatment should be a national priority. When senior citizens and disabled Americans check into a nursing home or other care setting, they should not have to check their right to a safe environment at the door.

I urge my colleagues to join in this effort so that all Americans can rest more comfortably knowing that their loved ones are receiving the best and safest care possible.

Mr. President, I ask that the text of the Patient Abuse Prevention Act, along with a comprehensive summary now appear in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1122

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Patient Abuse Prevention Act''.

**SEC. 2. ESTABLISHMENT OF NATIONAL REGISTRY OF ABUSIVE WORKERS.**

(a) IN GENERAL.—The Secretary shall establish, under the health care fraud and abuse data collection program established under section 1128E of the Social Security Act (42 U.S.C. 1320a–7e), a registry to be known as the ''National Registry of Abusive Workers'' (hereafter referred to in this section as the ''Registry'') to collect and maintain data on covered health care workers (as defined in subsection (e)) who have been the subject of reports of patient abuse.

(b) SUBMISSION OF INFORMATION BY STATE REGISTRIES.—Each State registry under sections 1819(e)(2) and 1919(e)(2) of the Social Security Act (42 U.S.C. 1395i–3(e)(2) and 1396r(e)(2)) shall submit to the Registry any existing or newly acquired information contained in the State registry concerning covered health care workers who have been the subject of confirmed findings of patient abuse.

(c) SUBMISSION OF INFORMATION BY STATE.—Each State shall report to the Registry any existing or newly acquired information concerning the identity of any covered health care worker who has been found to have committed an abusive act involving a patient, including the identity of any such worker who has been convicted of a Federal or State crime as described in section 1128(a)(2)(A) of the Social Security Act (42 U.S.C. 1320a–7(a)(2)(A)). The State shall provide such workers with a right to issue a statement concerning the submission of information to the Registry under this subsection. Any information disclosed concerning a finding of an abusive act shall also include disclosure of any statement submitted by a worker in the registry relating to the finding or a clear and accurate summary of such a statement.

(d) SUBMISSION OF INFORMATION BY FACILITIES.—Each covered health care facility shall report to the State concerning a covered health care worker who has been found to have engaged in an act of patient abuse. The State shall, in accordance with the procedures described in part 483 of title 42, Code of Federal Regulations (as in effect on July 1, 1995), conduct an investigation with respect to a report under this subsection to determine the validity of such a report.

(e) BACKGROUND CHECK.—

(1) REQUIREMENTS.—

(A) IN GENERAL.—Each covered health care facility (as defined in subsection (f)), prior to employing a covered health care worker, shall—

(i) in the case of a covered health care worker who has not otherwise undergone a criminal background check as part of the licensing requirements of a State, as determined under regulations promulgated by the Secretary, provide for the conduct by the State of a criminal background check (through an existing State database (if any) and through the Integrated Automated Fingerprint Identification System) concerning such worker, and provide the worker with prior written notice of the requirement for such a background check;

(ii) obtain from a covered health care worker prior to employment a written certification that such worker does not have a criminal record, and that a finding of abuse has not been made relating to such worker, that would preclude such worker from carrying out duties that require direct patient care; and

(iii) in the case of all such workers, contact the State health care worker registries established under sections 1819(e)(2) and 1919(e)(2) which shall also contact the Registry for information concerning the worker.

(B) IMPOSITION OF FEES.—A State may assess a covered health care facility a fee for the conduct of a criminal background check under subparagraph (A)(i) in an amount that does not exceed the actual cost of the conduct of the background check. Such a facility may recover from the covered health care worker involved a fee in an amount equal to not more than 50 percent of the amount of the fee assessed by the State for the criminal background check.

(C) EFFECTIVE DATE.—The requirement in subparagraph (A)(i) shall become applicable on January 1, 1999, or on such earlier date as the Director of the Federal Bureau of Investigation determines that the Integrated Automated Fingerprint Identification System has become operational.

(2) PROBATIONARY EMPLOYMENT.—Each covered health care facility shall provide a probationary period of employment for a covered health care worker pending the completion of the background checks required under paragraph (1)(A). Such facility shall maintain direct supervision of the covered health care worker during the worker's probationary period of employment.

(3) PENALTY.—

(A) IN GENERAL.—A covered health care facility that violates paragraph (1) or (2) shall be subject to a civil penalty in an amount not to exceed—

(i) for the first such violation, $2,000; and

(ii) for the second and each subsequent violation within any 5-year period, $5,000.

(B) KNOWING RETENTION OF WORKER.—In addition to any civil penalty under subparagraph (A), a covered health care facility that—

(i) knowingly continues to employ a covered health care worker in violation of paragraph (1) or (2) in a position involving direct patient care; or

(ii) knowingly fails to report a covered health care worker who has been determined to have committed patient abuse;

shall be subject to a civil penalty in an amount not to exceed $5,000 for the first such

violation, and $10,000 for the second and each subsequent violation within any 5-year period.

(f) DEFINITIONS.—In this section:

(1) COVERED HEALTH CARE FACILITY.—The term ''covered health care facility'' means—

(A) with respect to application under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), a provider of services, as defined in section 1861(u) of such Act (other than a fund for purposes of sections 1814(g) and 1835(e));

(B) with respect to application under the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), any nursing facility, home health agency, community-based residential facility, adult day care center, adult family home, assisted living facility, hospice program, hospital, treatment facility, personal care worker agency, supportive home care worker agency, board and care facility, or any other entity that receives assistance or benefits under the medicaid program under that title;

(C) a facility of the National Institutes of Health;

(D) a facility of the Indian Health Service;

(F) a health center under section 330 of the Public Health Service Act (42 U.S.C. 254b);

(G) a hospital or other patient care facility owned or operated under the authority of the Department of Veterans Affairs or the Department of Defense.

(2) COVERED HEALTH CARE WORKER.—The term ''covered health care worker'' means any individual that has direct contact with a patient of a covered health care facility under an employment or other contract, or under a volunteer agreement, with such facility. Such term includes individuals who are licensed or certified by the State to provide such services, and non-licensed individuals providing such services as defined by the Secretary including nurse assistants, nurses aides, home health aides, and personal care workers and attendants.

(3) PATIENT ABUSE.—The term ''patient abuse'' means any incidence of abuse, neglect, mistreatment, or misappropriation of property of a patient of a covered health care facility. The terms ''abuse'', ''neglect'', ''mistreatment'', and ''misappropriation of property'' shall have the meanings given such terms in part 483 of title 42, Code of Federal Regulations.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(g) CONSULTATION.—In carrying out this section the Secretary shall consult with the Director of the Federal Bureau of Investigation.

(h) REGULATIONS.—Not later than 6 months after the date of enactment of this Act, the Secretary shall promulgate regulations to carry out this section. With respect to subsections (b) and (c), the regulations shall call for the submission of information to the Registry not later than 30 days after the date of a conviction or on which a finding is made.

**SEC. 3. EXCLUSION OF CERTAIN INDIVIDUALS FROM PARTICIPATION IN PROGRAMS.**

(a) MANDATORY LIFETIME EXCLUSION.—Section 1128(a) of the Social Security Act (42 U.S.C. 1320a–7(a)) is amended by adding at the end the following:

''(5) CRIMINAL CONVICTION.—Any individual or entity that has been—

''(A) convicted, under Federal or State law, of a criminal offense involving a crime against bodily security, including homicide, battery, endangerment of safety, sexual assault, child or elder abuse, and spousal abuse; or

''(B) found to have—

''(i) knowingly continued to employ an individual described in subparagraph (A) in a position involving direct patient care; or

''(ii) knowingly failed to report an individual who has been determined to have committed a crime described in subparagraph (A).''.

(b) PERMISSIVE EXCLUSION.—

(1) IN GENERAL.—Section 1128(b) of the Social Security Act (42 U.S.C. 1320a–7(b)) is amended—

(A) in subsection (b), by adding at the end the following:

''(16) FINDING RELATING TO PATIENT ABUSE.—Any individual or entity that—

''(A) is or has been the subject of a specific documented finding of patient abuse by a State (as determined under procedures utilized by a State under section 1819(e)(2) or 1919(e)(2)); or

''(B) has been found to have—

''(i) knowingly continued to employ an individual described in subparagraph (A) in a position involving direct patient care; or

''(ii) knowingly failed to report an individual who has been determined to have committed patient abuse as described in subparagraph (A).''; and

(B) in subsection (c)(3), by adding at the end the following:

''(G) In the case of an exclusion of an individual or entity under subsection (b)(16), the period of exclusion shall be determined in accordance with regulations promulgated by the Secretary based on the severity of the conduct that is the subject of the exclusion.''.

(2) REGULATIONS.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services shall promulgate regulations to establish periods of exclusion for purposes of section 1128(c)(3)(G) of the Social Security Act.

(c) EXCLUSIONS APPLY TO ANY ENTITY ELIGIBLE FOR FEDERAL REIMBURSEMENT.—Section 1128 of the Social Security Act (42 U.S.C. 1320a–7) is amended by adding at the end the following:

''(j) APPLICABILITY OF CERTAIN EXCLUSIONS.—The exclusion (or direction to exclude) an individual or entity under subsections (a)(2) and (b)(16) shall provide that such individual or entity is excluded from working for or on behalf of any entity that is eligible for reimbursement under a Federal health care program, as defined in section 1128B(f).''.

**SEC. 4. PREVENTION AND TRAINING DEMONSTRATION PROJECT.**

(a) ESTABLISHMENT.—The Secretary of Health and Human Services shall establish a demonstration program to provide grants to develop information on best practices in patient abuse prevention training (including behavior training and interventions) for managers and staff of hospital and health care facilities.

(b) ELIGIBILITY.—To be eligible to receive a grant under subsection (a), an entity shall be a public or private nonprofit entity and prepare and submit to the Secretary of Health and Human Services an application at such time, in such manner, and containing such information as the Secretary may require.

(c) USE OF FUNDS.—Amounts received under a grant under this section shall be used to—

(1) examine ways to improve collaboration between State health care survey and provider certification agencies, long-term care ombudsman programs, the long-term care industry, and local community members;

(2) examine patient care issues relating to regulatory oversight, community involvement, and facility staffing and management with a focus on staff training, staff stress management and staff supervision;

(3) examine the use of patient abuse prevention training programs by long-term care entities, including the training program developed by the National Association of Attorneys General, and the extent to which such programs are used; and

(4) identify and disseminate best practices for preventing and reducing patient abuse.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

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PATIENT ABUSE PREVENTION ACT

SECTION 1. SHORT TITLE: ''PATIENT ABUSE PREVENTION ACT''

SECTION 2. CREATION OF NATIONAL REGISTRY OF ABUSIVE WORKERS

The National Registry will be established and maintained by the Department of Health and Human Services, Office of Inspector General. HHS is currently setting up a health care fraud and abuse data bank pursuant to the Health Insurance Portability and Accountability Act. This bill would increase the scope of that data bank and require active use of the registry. HHS will coordinate criminal findings and listings with the FBI.

Timeline—Within six months after the bill is enacted, HHS will establish the National Abuse Registry and publish regulations regarding submission of information from state abuse registries to the National Registry. Abuse findings will be reported to the Registry no later than 30 days following confirmation.

CONTENTS/USE OF REGISTRY

States will submit current nurse aide abuse registries to HHS following issuance of regulations on standard formats for submission.

States will expand nurse aide abuse registries to include other health care workers and personnel that have direct contact with vulnerable patients. Current state registries are limited to nurse aides, and in some states, home health aides.

The National Registry will also include all health care workers who have been convicted of an abuse, who have been subject to an abuse finding or who have a criminal record that has a bearing on the care of vulnerable patients.

Any provider hiring or employing a direct care worker would contact the state for a check on the state registry and a check of the National Registry. In addition, a criminal background check will be initiated (described below).

REPORTS OF ABUSE

Current HHS regulations require long-term care facilities to investigate and report abuses for further investigations to the appropriate state agency. This codifies that requirement.

Similarly, states must investigate patient abuse reports and contact the National Registry with any confirmed abuses.

Any finding of abuse will be submitted to the National Registry along with a statement of the person subject to the finding. Any abuse disclosure shall be accompanied by the statement.

States will also report known serious criminal convictions of health care workers outside of the health care setting to the national abuse registry. HHS will consult with the Department of Justice to address privacy concerns and to ensure coordination of the health care registry with national criminal data bank maintained by the FBI.

MANDATORY CRIMINAL BACKGROUND CHECKS

FBI criminal background checks will be required for those direct patient care workers who have not been subject to a criminal background check under state licensing requirements. This includes licensed practitioners who have not undergone a background check, nurse aides, home health aides

and other workers that will have unsupervised contact with a vulnerable patient.

States will submit check requests to the FBI national criminal background check system (fingerprint checks). Because of the current backlog at FBI for fingerprint checks, the provision is delayed until no later than January 1, 1999. At that time, FBI should have the Integrated Automated Fingerprint Identification System fully operational. That system should operate within a two-day turn around and at less cost than the current manual system.

Fees: States may charge fees to cover cost of FBI check, not to exceed their cost. Facilities may split the cost of the fees with the applicant.

PENALTIES FOR NON-COMPLIANCE

If a provider fails to inquire with the state and hires a known abuser, the provider is subject to a fine of $2,000 for the first violation and $5,000 for subsequent violations. If there is willful disregard of the background check and reporting requirements, the fines increase up to $10,000.

SECTION 3. CHANGES TO CURRENT LAW EXCLUSIONS AND OBRA '87 PROVISIONS

Current law requires that only nurse aides are listed on state registries. This requirement will be expanded to cover all direct case workers.

Current law already mandates exclusion for those convicted of patient abuse or other crimes within the health care setting. This adds a prohibition to health care workers who have been convicted of the most serious crimes outside of the health care setting, including homicide, battery, sexual assault, and child, elder or spousal abuse.

Varying degrees of abuse ''findings'' will be allowed on state and national registry. One of the main complaints of providers and state ombudsman programs is that a ''finding'' of abuse equates to a ''death sentence'' by banning an individual from working as a nurse aide for life. Due to the severity of the ban, facilities may avoid pursuing a case and States may hesitate to aggressively pursue abuse reports that may or may not lead to a ''finding.'' Therefore, other health facilities may be unaware of instances of abuse or mistreatment. This bill will allow HHS to issue regulations on varying degree's of findings and exclusions so that those who have had problems will be listed, but not necessarily prohibited from working for life.

DEFINITIONS

Covered Care Workers—Patient care workers who have direct assess to vulnerable patients.

Covered Health Care Facilities—those receiving Medicare or Medicaid reimbursement, such as: nursing homes, skilled nursing facilities, home health agencies, community-based residential facilities, board and care facilities, adult day care centers, adult family homes, assisted living facilities, hospice programs, and hospitals. Federal health care facilities are also subject to the requirements.

Abuse—Any finding of abuse, neglect, mistreatment of residents or misappropriation of their property as defined in current Federal regulations relating to nurse aides (CFR, Sect. 483.13 (c)(ii).

Crime—those that reflect a clear disregard for the health, well-being, safety and general welfare of other people must be prohibited from working in direct contact with vulnerable long term care residents or consumers. Current law already requires exclusion of those convicted of health care fraud and acts of abuse in the health care setting. Other crimes may be cause for exclusion under current law at the discretion of the Secretary of HHS. This bill adds a mandatory exclusion of those convicted of serious crimes that occur outside of the health care setting.

SECTION 4. ABUSE PREVENTION/TRAINING DEMONSTRATION

Because the best way to combat patient abuse is to prevent it from occurring, a new demonstration program is created to compile information on best practices in abuse prevention training for managers and staff of health care facilities. The demonstration will focus on ways to improve collaboration between state health care survey and certification agencies, long-term care ombudsman programs, the long term care industry and community members. Current patient abuse prevention training programs will be studied for effectiveness and application to other health care settings.

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By Mr. HATCH (for himself, Mr. BAUCUS, Mr. D'AMATO, and Mrs. BOXER):

S. 1123. A bill to amend the Internal Revenue Code of 1986 relating to the unemployment tax for individuals employed in the entertainment industry; to the Committee on Finance

UNEMPLOYMENT OFFSET LEGISLATION

Mr. HATCH. Mr. President, I rise today to introduce legislation to correct a problem with the way unemployment benefits are currently offset when received by participants in a multiemployer pension plan.

Under our current Unemployment Compensation [UC] system States pay and administer UC benefits. The federal government shares in the cost of these benefits. Since 1980, the Federal Government has required that UC benefits be offset or reduced by any pension benefits that an individual receives from a base-period employer. A base period employer is any employer of the recipient during the 52-week period before the loss of a job.

Here is how it works. If you are involuntarily separated from the same employer that is paying your retirement benefits and your employment caused your retirement benefits to increase any unemployment compensation you may qualify for will be offset by any retirement income received for this same employer. Thus, retirement benefits received could significantly reduce or eliminate any unemployment benefits.

Mr. President, this policy was implemented, in part, to prevent employees from receiving pension benefits and qualifying for unemployment compensation from the same employment.

Unfortunately, the application of the offset requirement to participants in multiemployer pension plans can unfairly penalize some taxpayers. Under current law, all employers in a multiemployer plan group are considered base-period employers for unemployment compensation purposes. Because of this, members of a multiemployer pension plan, such as actors and actresses that return to work, even through it may be for another employer (i.e., studio), are treated as returning to work for the same employer because all entertainment industry employers are part of the same multiemployer pension plan. Thus, when they return to work in their later years and their pension is increased by a nominal amount their unemployment compensation benefits are offset by their full pension amount. This can leave some with the little or no unemployment compensation benefits.

Mr. President, to correct this, I am introducing legislation that would simply limit the unemployment benefit offset to the amount of the pension increase rather than the full pension amount received. Similar legislation has been introduced in the House by Rep. English as H.R. 841.

Mr. President, I hope we can pass this change to allow workers in multiemployer pension plans to receive the same treatment as participants in other plans.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1123

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. INDIVIDUALS EMPLOYED IN ENTERTAINMENT INDUSTRY.**

(a) IN GENERAL.—Section 3304(a)(15) of the Internal Revenue Code of 1986 (relating to reductions in tax) is amended.

(1) by striking ''and'' at the end of subparagraph (A),

(2) by striking the period at the end of subparagraph (B) and inserting '';and'', and

(3) by adding at the end of the following:

''(C) in the case of a pension, retirement or retired pay, annuity, or other similar periodic payment under an entertainment industry plan contributed to by an employer—

''(i) such a reduction shall not be required by reason of such a payment unless—

''(I) such individual worked for such employer before the base period, and

''(II) such employer contributed to such plan an account of such individual's work for such employer before the base period, and

''(ii) subject to subparagraph (B), such reduction shall not exceed the amount (if any) of the increase referred to in subparagraph (A)(ii) in such payment which is attributable to services performed by such individual for such employer;''.

(b) ENTERTAINMENT INDUSTRY PLAN AND EMPLOYER.—Section 3304 of such Code is amended by adding at the end of the following new subsection:

''(g) ENTERTAINMENT INDUSTRY PLANS AND EMPLOYERS.—For purposes of subsection (a)(15)(C)—

''(1) ENTERTAINMENT INDUSTRY PLAN.—The term 'entertainment industry plan' means any multi-employer plan substantially all of the contributions to which are made by entertainment industry employers.

''(2) ENTERTAINMENT INDUSTRY EMPLOYER.—The term 'entertainment industry employer' means any employer substantially all of the trades or businesses of which consists of either or both—

''(A) radio or television broadcasting, and

''(B) the production or distribution of visual images or sound on—

''(i) video or audiotype,

''(ii) film, or

''(iii) computer-generated or other visual for audio media,

for public dissemination (whether for entertainment, informational, commercial, educational, religious, or other purposes).''

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to weeks beginning after December 31, 1997.

(2) SPECIAL RULE.—In the case of any State the legislature of which has not been in session for at least 30 calendar days (whether or not successive) between the date of the enaction of this Act and December 31, 1997, the amendments made by this section shall apply to weeks beginning after the date which is 30 calendar days after the first day on which such legislative is in session on or after December 31, 1997.

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By Mr. KERRY (for himself and Mr. COATS):

S. 1124. A bill to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodation in employment, and for other purposes; to the Committee on the Judiciary.

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## WORKPLACE RELIGIOUS FREEDOM ACT

Mr. KERRY. Mr. President, I send a bill to the desk and I ask for its appropriate referral.

Mr. President, I am introducing today a bipartisan bill, together with Senator COATS of Indiana. This is the Workplace Religious Freedom Act of 1997.

This bill would protect workers from on-the-job discrimination related to religious beliefs and practices. It represents a milestone in the protection of the religious liberties of all workers. Senator COATS and I developed this new bill based on a similar bill I introduced earlier this session.

In 1972, Congress amended the Civil Rights Act of 1964 to require employers to reasonably accommodate an employee's religious practice or observance unless doing so would impose an undue hardship on the employer. This 1972 amendment, although completely appropriate, has been interpreted by the courts so narrowly as to place little restraint on an employer's refusal to provide religious accommodation. The Workplace Religious Freedom Act will restore to the religious accommodation provision the weight that Congress originally intended and help assure that employers have a meaningful obligation to reasonably accommodate their employees' religious practices.

The restoration of this protection is no small matter. For many religiously observant Americans the greatest peril to their ability to carry out their religious faiths on a day-to-day basis may come from employers. I have heard accounts from around the country about a small minority of employers who will not make reasonable accommodation for employees to observe the Sabbath and other holy days or for employees who must wear religiously-required garb, such as a yarmulke, or for employees to wear clothing that meets religion-based modesty requirements.

The refusal of an employer, absent undue hardship, to provide reasonable accommodation of a religious practice should be seen as a form of religious discrimination, as originally intended by Congress in 1972. And religious discrimination should be treated fully as seriously as any other form of discrimination that stands between Americans and equal employment opportunities. Enactment of the Workplace Religious Freedom Act will constitute an important step toward ensuring that all members of society, whatever their religious beliefs and practices, will be protected from an invidious form of discrimination.

It is important to recognize that, in addition to protecting the religious freedom of employees, this legislation protects employers from an undue burden. Employees would be allowed to take time off only if their doing so does not pose a significant difficulty or expense for the employer. This common sense definition of undue hardship is used in the ''Americans with Disabilities Act'' and has worked well in that context.

We have little doubt that this bill is constitutional because it simply clarifies existing law on discrimination by private employers, strengthening the required standard for employers. Unlike the Religious Freedom Restoration Act [RFRA], which was declared unconstitutional recently by the Supreme Court, the bill does not deal with behavior by State or Federal Governments or substantively expand 14th amendment rights.

I believe this bill should receive bipartisan support. This bill is endorsed by a wide range of organizations including the American Jewish Committee, Baptist Joint Committee, Christian Legal Society, Seventh-day Adventists, National Association of Evangelicals, National Council of the Churches, National Sikh Center, and Presbyterian Churches. I ask unanimous consent that the letter from the Coalition for Religious Freedom in the Workplace, which represents all of these groups, be included in the RECORD.

I want to thank Senator COATS for joining me in this effort. I look forward to working with him to pass this legislation so that all American workers can be assured of both equal employment opportunities and the ability to practice their religion.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1124

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Workplace Religious Freedom Act of 1997''.

**SEC. 2. AMENDMENTS.**

(a) DEFINITIONS.—Section 701(j) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(j)) is amended—

(1) by inserting ''(1)'' after ''(j)'';

(2) by inserting '', after initiating and engaging in an affirmative and bona fide effort,'' after ''unable'';

(3) by striking ''an employee's'' and all that follows through ''religious'' and insert ''an employee's religious''; and

(4) by adding at the end the following:

''(2) As used in this subsection, the term 'employee' includes a prospective employee.

''(3) As used in this subsection, the term 'undue hardship' means an accommodation requiring significant difficulty or expense. For purposes of determining whether an accommodation requires significant difficulty or expense—

''(A) an accommodation shall be considered to require significant difficulty or expense if the accommodation will result in the inability of an employee to perform the essential functions of the employment position of the employee; and

''(B) other factors to be considered in making the determination shall include—

''(i) the identifiable cost of the accommodation, including the costs of loss of productivity and of retraining or hiring employees or transferring employees from one facility to another, in relation to the size and operating cost of the employer;

''(ii) the number of individuals who will need the particular accommodation to a religious observance or practice; and

''(iii) for an employer with multiple facilities, the degree to which the geographic separateness or administrative or fiscal relationship of the facilities will make the accommodation more difficult or expensive.''.

(b) EMPLOYMENT PRACTICES.—Section 703 of such Act (42 U.S.C. 2000e–2) is amended by adding at the end the following:

''(o)(1) As used in this subsection:

''(A) The term 'employee' includes a prospective employee.

''(B) The term 'leave of general usage' means leave provided under the policy or program of an employer, under which—

''(i) an employee may take leave by adjusting or altering the work schedule or assignment of the employee according to criteria determined by the employer; and

''(ii) the employee may determine the purpose for which the leave is to be utilized.

''(C) The term 'undue hardship' has the meaning given the term in section 701(j)(3).

''(2) For purposes of determining whether an employer has committed an unlawful employment practice under this title by failing to provide a reasonable accommodation to the religious observance or practice of an employee, an accommodation by the employer shall not be deemed to be reasonable if such accommodation does not remove the conflict between employment requirements and the religious observance or practice of the employee.

''(3) An employer shall be considered to commit such a practice by failing to provide such a reasonable accommodation for an employee if the employer refuses to permit the employee to utilize leave of general usage to remove such a conflict solely because the leave will be used to accommodate the religious observance or practice of the employee.

''(4) It shall not be a defense to a claim of unlawful employment practice under this title for failure to provide a reasonable accommodation to a religious observance or practice of an employee that such accommodation would be in violation of a bona fide seniority system if, in order for the employer to reasonably accommodate such observance or practice—

''(A) an adjustment would be made in the employee's work hours (including an adjustment that requires the employee to work overtime in order to avoid working at a time that abstention from work is necessary to satisfy religious requirements), shift, or job assignment, that would not be available to any employee but for such accommodation; or

''(B) the employee and any other employee would voluntarily exchange shifts or job assignments, or voluntarily make some other arrangement between the employees.

''(5)(A) An employer shall not be required to pay premium wages or confer premium benefits for work performed during hours to which such premium wages or premium benefits would ordinarily be applicable, if work is performed during such hours only to accommodate religious requirements of an employee.

''(B) As used in this paragraph—

''(i) the term 'premium benefit' means an employment benefit, such as seniority, group life insurance, health insurance, disability insurance, sick leave, annual leave, an educational benefit, or a pension, that is greater than the employment benefit due the employee for an equivalent period of work performed during the regular work schedule of the employee; and

''(ii) the term 'premium wages' includes overtime pay and compensatory time off, premium pay for night, weekend, or holiday work, and premium pay for standby or irregular duty.''.

**SEC. 3. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.**

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by section 2 take effect on the date of enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by section 2 do not apply with respect to conduct occurring before the date of enactment of this Act.

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COALITION FOR RELIGIOUS FREEDOM IN THE WORKPLACE,
*Washington, DC, July 31, 1997.*

The Coalition for Religious Freedom in the Workplace is a broad coalition of religious and civil rights groups that has come together to promote the passage of legislation to strengthen the religious accommodation provisions of Title VII of the Civil Rights Act of 1964. We applaud Senators Dan Coats and John Kerry for their action today in introducing the Workplace Religious Freedom Act of 1997.

Current civil rights law defines the refusal of an employer to reasonably accommodate an employee's religious practice, unless such accommodation would impose an undue hardship on the employer, as a form of religious discrimination. But this standard has been interpreted far too narrowly by the courts, placing little restraint on an employer's ability to refuse to provide religious accommodation.

It is time to correct an interpretation of the law that needlessly forces upon religiously observant employees a conflict between the dictates of religious observance and the requirements of the workplace. The bipartisan effort of Senators Coats and Kerry in crafting and introducing the Workplace Religious Freedom Act sends exactly the right signal; as was the case with the Religious Freedom Restoration Act, the effort to safeguard religious liberty and fight against religious discrimination is one that should, and must, bring together Americans from a broad range of political and religious persuasions.

The Coalition for Religious Freedom in the Workplace welcomes today's introduction of the Workplace Religious Freedom Act. We look forward to working with Senators Coats, Kerry and other Members on this crucial issue as this legislation moves forward.

Mr. COATS. Mr. President, to privatize religious belief is to trivialize it. When we treat religion as purely personal—irrelevant to the way we live our lives and write our laws—this is not neutrality to religion, it is hostility to religion. The reason is simple: because faith is more than an internal belief, it is a guide to external conduct. And for religious liberty to have any meaning, government and business must accommodate that conduct, within the bounds of reason and order. Consider one case:

Ms. Jones, a line worker at Bigco Enterprises approaches her supervisor with a problem: According to her religion, she may not work on Sunday. Ms. Jones will work any other day—including Saturday evenings—without extra pay. But the mandate of her religion is absolute. If given the choice of working on Sunday or losing her job, Ms. Jones will have to resign or risk being fired. The supervisor explains that Bigco has a random shift-assignment policy which requires that every employee work the assigned shift or find a replacement worker. Unable to find a replacement worker, Ms. Jones misses two Sundays, and is fired.

Mr. President, presumably, title VII of the Civil Rights Act of 1964, which prohibits an employer from discriminating against an employee on the basis of her religion, would provide Ms. Jones some recourse. But that is not necessarily the case.

Since 1972, title VII has required an employer to make an accommodation ''unless an employer demonstrates that he is unable to reasonably accommodate an employee's religious observance or practice without undue hardship.'' In a case such as the one described above, Mr. Jones' religious practice would not have to be accommodated, and Bigco would likely not be liable since attempting to find a replacement worker for Jones would cause Bigco to ''bear more than a de minimis cost''.

Under current law, Ms. Jones' religious observance would constitute an undue hardship, and Bigco would have no further obligation to Ms. Jones.

Over 60 percent of Americans consider themselves to be religious, yet, Ms. Jones' predicament is all too common in the United States. Employees who engage in seemingly common religious observances such as the Sabbath are often faced with the difficulty of breaking an employer's rule or violating a religious tenet.

As Justice Marshall explained in his dissent in the Hardison case, under the de minimis standard which the courts have adopted in religious accommodation cases, an employer ''need not grant even the most minor special privilege to religious observers to enable them to follow their faith.'' He continues: ''As a question of social policy, this result is deeply troubling, for a society that truly values pluralism cannot compel aderents of minority religions to make the cruel choice of surrendering their religion or their job.''

Mr. President, I am pleased to join Senator KERRY in introducing the Workplace Religious Freedom Act to addresses this issue head-on. The goal of the act is to restore the original intent of title VII by extending to religious observers the same level of protection afforded others under Federal civil rights laws.

The act accomplishes this goal principally by applying the same standard for undue hardship to religious observance cases as are already applied in other Federal civil rights actions, such as those under the Americans with Disabilities Act and the Rehabilitation Act. Thus under this legislation, the term undue hardship is defined as an action requiring ''significant difficulty or expense''.

Our bill takes into account a number of factors, including: First the cost of the accommodation as determined by the costs of lost productivity and of retraining or hiring employees or transferring employees from one facility to another; second the size of the employer; third the number of employees who require the accommodation and; fourth for an employer with multiple facilities, the degree to which the geographic separateness or administrative or fiscal relationship of the facilities will make the accommodation more difficult or expensive.

The bill also provides a number of safeguards for the employer. For example, an employer is not required to provide an accommodation which will result in the inability of an employee to perform the essential functions of the job nor is an employer required to pay premium wages or additional benefits to employees requesting the accommodation if the change in schedule is instituted specifically to accommodate an employee's religious observance or practice.

The Workplace Religious Freedom Act is an important step toward restoring the original intent of title VII. Though we know that only a minority of employers refuse to make reasonable accommodations for employees to observe the Sabbath or other Holy days, the fact of the matter is that no worker in America should be forced to choose between a job and violating deeply held religious tenets. Religious discrimination in America must not be tolerated. It should be treated as seriously as any other form of discrimination.

Mr. President, let me conclude by reminding us that the best and oldest tradition of America is religious accommodation without coercion. We have no established religion in this country, and do not want one. But we must recognize and respect the important role of religion in our society. Values that come from religious faith enrich our common life. As a society, we must continue to guarantee that religious liberty. I urge my colleagues to support this important legislation.

COALITION FOR RELIGIOUS FREEDOM IN THE WORKPLACE

Agudath Israel of America
America Jewish Committee
American Jewish Congress

Americans for Democratic Action
Anti-Defamation League
Baptist Joint Committee on Public Affairs
Central Conference of American Rabbis
Christian Legal Society
Church of Scientology International
Council on Religious Freedom
General Board on Church and Society
The United Methodist Church
General Conference of Seventh-day Adventists
Guru Gobind Singh Foundation
Hadassah-WZOA
International Association of Jewish Lawyers and Jurists
Jewish Council for Public Affairs
National Association of Evangelicals
NationalCouncil of Churches
National Council of Jewish Women
National Sikh Center
North American Council for Muslim Women
People for the American Way
Presbyterian Church (USA), Washington Office
Rabbinical Council of America
Traditional Values Coalition
Union of American Hebrew Congregations
Union of Orthodox Jewish Congregations
United Synagogue of Conservative Judaism

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By Ms. MOSELEY-BRAUN (for herself and Mr. DURBIN):

S. 1125. A bill to amend title 23, United States Code, to extend the discretionary bridge program; to the Committee on Environment and Public Works.

HIGHWAY BRDIGE IMPROVEMENT ACT OF 1997

Ms. MOSELEY-BRAUN. Mr. President, I am pleased to introduce the Highway Bridge Improvement Act of 1997 with my colleague from Illinois, Senator DURBIN.

This legislation would increase the authorization for the Discretionary Bridge Program from its current level of around $60 million annually to $800 million annually. This change would allow States with large bridge improvement projects to compete for discretionary grants at the Federal level.

Mr. President, in 1995 approximately 25 percent of the Nation's Interstate bridges were classified as deficient. In addition, 28 percent of the 130,000 bridges on all other arterial systems were deficient. As the Congress considers ISTEA reauthorization legislation later this year, it is vitally important that we continue the successful Highway Bridge Repair and Rehabilitation Program, and substantially increase the authorization level of the Discretionary Bridge Program.

Since its creation in 1978, the Discretionary Bridge Program has been a valuable source of funds for many States. Demand for funding under the program has vastly exceeded available resources. In 1996 alone, States submitted 29 requests totaling $650 million. The program was authorized at less than one-tenth that level.

The Highway Bridge Improvement Act would increase the authorization for the Discretionary Bridge Program to $800 million annually, allowing States to compete for discretionary bridge repair grants above and beyond their formula allocation for bridge repairs.

Mr. President, this bill does not include a set-aside for the Highway Timber Bridge Research and Demonstration Program, nor does it include a new proposal I support to create a Steel Bridge Research and Construction Program. Our legislation is a very simple statement about the importance of increasing the authorization for the Discretionary Bridge Program.

As my colleagues on the Environment and Public Works Committee draft legislation to reauthorization the Intermodal Surface Transportation and Efficiency Act, I hope they will include the timber and steel bridge set-asides, and I hope they will include the Highway Bridge Improvement Act.

I urge all of my colleagues to consider the needs of the bridges in their States, and to support this important legislation.

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By Mrs. BOXER (for herself and Ms. MOSELEY-BRAUN):

S. 1126. A bill to repeal the provision in the Balanced Budget Act of 1997 relating to base periods for Federal unemployment tax purposes; to the Committee on Labor and Human Resources.

LEGISLATION TO REPEAL CERTAIN SECTION OF THE BALANCED BUDGET ACT OF 1997

Mrs. BOXER. Mr. President, I rise today to introduce a bill to repeal section 5401 of the conference report to H.R. 2015, the Balanced Budget Act of 1997. This provision, entitled ''Clarifying provision relating to base periods,'' will have a devastating impact on hundreds of thousands of unemployed workers in California and throughout the country.

This provision, although labeled ''clarifying,'' actually overturns a very important 3-year-old Federal court decision. A provision with such far-reaching implications for all of the working men and women in our country who are currently unemployed, or, in this era of downsizing, may become unemployed, should not be tucked away in a 1,000-plus page bill.

Let me briefly explain to my colleagues why this provision has such a devastating impact on unemployed workers. On February 21, 1997, a statewide class action suit was filed on behalf of more than 120,000 Californians who have earned sufficient wages to qualify for unemployment insurance but nevertheless must wait up to 7 months to receive their unemployment benefits. There is no question that these workers are entitled to unemployment benefits; the only issue is when the State will pay the benefits.

In order to receive unemployment benefits a worker must have earned a prescribed amount in the 12-month period prior to his unemployment. However, because many States, including my home State of California, are slow to obtain and process wage data, a worker's unemployment compensation is often not calculated based upon his most recent wages. Rather, it is often calculated based upon wages which were earned up to 7 months prior to the date the worker files a claim. For example, if a worker files a claim for benefits in January 1997, any amounts he earned after July 1996, will be disregarded because it is outside of the ''base period.''

This policy of delaying payment of unemployment benefits causes severe hardship to unemployed workers, pushing many of these workers on to the welfare roles. The bill I have introduced today will help enable these unemployed workers get the benefits they are due in a timely manner.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1126

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. REPEAL OF SECTION 5401 OF BALANCED BUDGET ACT OF 1997.**

(a) IN GENERAL.—Section 5401 of the Balanced Budget Act of 1997 is hereby repealed.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply for purposes of any period beginning before, on, or after the date of the enactment of this Act.

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By Mr. WELLSTONE:

S. 1128. A bill to provide rental assistance under section 8 of the United States Housing Act of 1937 for victims of domestic violence to enable such victims to relocate; to the Committee on Banking, Housing, and Urban Affairs.

THE DOMESTIC VIOLENCE VICTIMS HOUSING ACT

Mr. WELLSTONE. Mr. President, I rise today to introduce legislation that will ensure that battered women have increased access to affordable housing through tenant-based rental assistance. The lack of safe, affordable housing is a major factor in forcing women to return to their violent partners, either directly from a shelter or after attempting to set up an independent home. This bill would address that important problem by providing section 8 housing certificates to low-income women who are victims of domestic violence.

Domestic violence in our society is a staggering problem. An estimated 4 million American women experience a serious assault by a husband or boyfriend each year. In 1993 alone, over 1,300 women were reportedly killed by abusive partners or former partners. Battered women are confronted with numerous obstacles in their efforts to survive and escape domestic violence. Some obstacles arise from the dynamics of abusive relationships—dependency, isolation, and fear. Economic obstacles, however, create some of the must difficult problems for women trying to leave a violent partner, including child and health care costs, and the lack of safe, affordable housing. Battered women and their children are a large proportion of the emergency shelter population. Even if shelter space is available, access to affordable housing,

housing subsidies and services are needed to keep women from having to return to a violent home. A study in Michigan found that 60 percent of those who left shelters and returned to their violent partners did so because of too little affordable housing. Equally as disturbing is the fact that 50 percent of all homeless women and children in this country are fleeing domestic violence.

There have been cases brought to my attention in my home State of Minnesota where women trying to escape abusive relations could have benefited from this legislation, and we know that sadly there are many more stories from around the country.

One case involves a young mother from a small town in central Minnesota. Rachel left her child's father after suffering 2 years of abuse at his hands. She and her baby stayed in a battered women's shelter for a month until she found an apartment. After paying her rent each month, Rachel was unable to provide for her family. Seeing no other options, she returned to the home of her abuser; after a 2 month respite, he began to batter her again.

This legislation would assist women, like Rachel, fleeing abuse to get affordable housing by authorizing $50 million in funding for section 8 housing certificates. The Department of Housing and Urban Development [HUD] would allocate the resources to public housing authorities which would issue the housing certificates to domestic violence victims. Only those victims who met the other requirements of the section 8 program would be eligible. HUD estimates that this program would provide 7,500 housing units nationwide for victims of domestic violence.

Mr. President, this legislation will go a long way in removing a major roadblock for battered women who are trying to escape domestic violence—the lack of affordable housing. We need to give these women an opportunity other than living on the streets, in shelters, returning to their batterers. This legislation would provide battered women and their children an opportunity to rebuild their lives in a stable home. Furthermore, this legislation conveys the message to abusers that we will not tolerate their violence, that we will not continue to allow them to drive their victims into the shelters and the street.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1128

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Domestic Violence Victims Housing Act''.

**SEC. 2. DEFINITIONS.**

In this Act:

(1) ABUSE.—The term ''abuse'' includes any act that constitutes or causes, any attempt to commit, or any threat to commit—

(A) any bodily injury or physical illness, including placing, by physical menace, another in fear of imminent serious bodily injury;

(B) any rape, sexual assault, or involuntary sexual activity, or any sexual activity with a dependent child;

(C) the infliction of false imprisonment or other nonconsensual restraints on liberty of movement;

(D) deprivation of medical care, housing, food, or other necessities of life; or

(E) mental or psychological abuse, including repeated or severe humiliation, intimidation, criticism, acts designed to induce terror, or verbal abuse.

(2) DOMESTIC VIOLENCE.—The term ''domestic violence'' means abuse that is committed against an individual by—

(A) a spouse or former spouse of the individual;

(B) an individual who is the biological parent or stepparent of a child of the individual subject to the abuse, who adopted such child, or who is a legal guardian to such a child;

(C) an individual with whom the individual subject to the abuse is or was cohabiting;

(D) a current or former romantic, intimate, or sexual partner of the individual; or

(E) an individual from whom the individual subject to the abuse would be eligible for protection under the domestic violence, protection order, or family laws of the applicable jurisdiction.

(3) FAMILY VICTIMIZED BY DOMESTIC VIOLENCE.—

(A) IN GENERAL.—The term ''family victimized by domestic violence'' means a family or household that includes an individual who has been determined under subparagraph (B) to have been subject to domestic violence, but does not include any individual described in paragraph (3) who committed the domestic violence. The term includes any such family or household in which only a minor or minors are the individual or individuals who was or were subject to domestic violence only if such family or household also includes a parent, stepparent, legal guardian, or other responsible caretaker for the child.

(B) DETERMINATION THAT FAMILY OR INDIVIDUAL WAS SUBJECT TO DOMESTIC VIOLENCE.—For purposes of subparagraph (A), a determination under this subparagraph is a determination that domestic violence has been committed, which is made by any agency or official of a State or unit of general local government (including a public housing agency) based upon—

(i) information provided by any medical, legal, counseling, or other clinic, shelter, or other program or entity licensed, recognized, or authorized by the State or unit of general local government to provide services to victims of domestic violence;

(ii) information provided by any agency of the State or unit of general local government that provides or administers the provision of social, legal, or health services;

(iii) information provided by any clergy;

(iv) information provided by any hospital, clinic, medical facility, or doctor licensed or authorized by the State or unit of general local government to provide medical services;

(v) a petition or complaint filed in a court or law or documents or records of action of any court or law enforcement agency, including any record of any protection order, injunction, or temporary or final order issued by civil or criminal courts or any police report; or

(vi) any other reliable evidence that domestic violence has occurred.

(4) PUBLIC HOUSING AGENCY.—The term ''public housing agency'' has the meaning given the term in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)).

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Housing and Urban Development.

(6) STATE.—The term ''State'' means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and any other territory or possession of the United States.

(7) UNIT OF GENERAL LOCAL GOVERNMENT.—The term ''unit of general local government'' has the meaning given the term in section 102(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)).

**SEC. 3. AUTHORIZATION OF APPROPRIATIONS.**

The budget authority under section 5(c) of the United States Housing Act of 1937 for assistance under subsections (b) and (o) of section 8 of such Act is authorized to be increased by—

(1) $50,000,000 on or after October 1, 1997; and

(2) such sums as may be necessary on or after October 1, 1998.

**SEC. 4. USE OF AMOUNTS FOR HOUSING ASSISTANCE FOR VICTIMS OF DOMESTIC VIOLENCE.**

(a) IN GENERAL.—Amounts available pursuant to section 3 shall be made available by the Secretary of Housing and Urban Development only to public housing agencies only for use in providing tenant-based rental assistance on behalf of families victimized by domestic violence who have left or who are leaving a residence as a result of the domestic violence.

(b) DETERMINATION.—For purposes of subsection (a), a family victimized by domestic violence shall be considered to have left or to be leaving a residence as a result of domestic violence, if the public housing agency providing rental assistance under this Act determines that the member of the family who was subject to the domestic violence reasonably believes that relocation from such residence will assist in avoiding future domestic violence against such member or another member of the family.

(c) ALLOCATION.—Amounts made available pursuant to section 3 shall be allocated by the Secretary to one or more public housing agencies that submit applications to the Secretary that, in the determination of the Secretary, best demonstrate—

(1) a need for such assistance; and

(2) the ability to use that assistance in accordance with this Act.

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By Mr. WELLSTONE (for himself and Mr. DURBIN):

S. 1129. A bill to provide grants to States for supervised visitation centers; to the Committee on Labor and Human Resources.

THE SAFE HAVENS FOR CHILDREN ACT OF 1997

Mr. WELLSTONE. Mr. President, I rise today to introduce legislation that will provide safe havens for children who are members of families in which violence is a problem. I am pleased to have my distinguished colleague from Illinois, Mr. DURBIN, join me in this effort.

The prevalence of family violence in our society is staggering. Studies show that 25 percent of all violence occurs among people who are related to one another. Data also indicate that the incidence of violence in families escalates during separation and divorce. In

fact, over 70 percent of women who are treated for domestic violence in emergency departments have already separated from the person who has inflicted their injuries. Many of these assaults occur in the context of child visitation. This clearly places children at risk not only of witnessing violence, but also of becoming victims of violence within their own families. Children who are exposed to violence suffer many long term effects of this exposure.

In addition to the obvious physical consequences of violence, there are innumerable psychosocial effects. For example, a child who learns from his parents, his role models, that violence is a way of resolving differences, or controlling another person, will grow up believing that it is normal to use violence in everyday interpersonal relationships. As a consequence, he will grow up believing that it is acceptable to physically hurt those people he loves the most. A young girl who watches her mother being beaten up by her father may come to understand that physical injury is just one aspect of a ''normal'' relationship. Children who are exposed to violence are at risk for mental health problems and substance abuse problems as they grow up. When we allow children to grow up believing that violence is normal and acceptable, we do a great deal of damage to their lives and decrease their chances for healthy futures.

In order to prevent the risk of exposure to violence, I am introducing this legislation, to provide funding for the creation of child safety centers. These centers will provide a safe environment in which children can visit with their parents without risk of being exposed to violence in the context of their family relationships. This bill will protect children from the trauma of witnessing or experiencing violence, sexual abuse, neglect, abduction, rape, or death during parent-child visitation or visitation exchanges; protect victims of violence from experiencing further violence during child visitation or visitation exchanges and will provide safe havens for children and their parents during visitation or visitation exchanges.

This act will provide grants to States to enable the states to enter into contract and cooperative agreements with public or private nonprofit entities in order to establish child safety centers. These centers will operate for the purpose of facilitating supervised visitation and visitation exchange. The services provided by the centers will be evaluated each year, so that we will learn how many people are served by the centers and what types of problems are encountered by the clients of the centers. The act will authorize appropriations of $65,000,000 for each of the fiscal years 1998 through 2000.

Mr. President, this legislation will go a long way in protecting children from family violence and in providing support for families that are experiencing violence. We need to do this to protect our children and give them the chance to grow up without believing that violence is normal.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1129

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Safe Havens for Children Act of 1997''.

**SEC. 2. PURPOSES.**

The purposes of this Act are—

(1) to protect children from the trauma of witnessing or experiencing violence, sexual abuse, neglect, abduction, rape, or death during parent-child visitation and visitation exchanges;

(2) to protect victims of domestic violence from experiencing further violence during child visitation and visitation exchanges; and

(3) to provide safe havens for parents and children during visitation and visitation exchanges, to promote continuity and stability.

**SEC. 3. FINDINGS.**

Congress makes the following findings:

(1) Family violence does not necessarily cease when family victims are legally separated by divorce or otherwise not sharing a household.

(2) According to a 1996 report by the American Psychological Association, custody and visitation disputes are more frequent when there is a history of domestic violence.

(3) Family violence often escalates following separation and divorce, and child custody and visitation arrangements become the new forum for the continuation of abuse.

(4) According to a 1996 report by the American Psychological Association, fathers who batter mothers are twice as likely to seek sole custody of their children. In these circumstances, if the abusive father loses custody he is more likely to continue the threats to the mother through other legal actions.

(5) Some perpetrators of violence use the children as pawns to control the abused party and to commit more violence during separation or divorce. In one study, 34 percent of women in shelters and callers to hotlines reported threats of kidnapping, 11 percent reported that the batterer had kidnapped the child for some period, and 21 percent reported that threats of kidnapping forced the victim to return to the batterer.

(6) Approximately 90 percent of children in homes in which their mothers are abused witness the abuse. Children who witness domestic violence may themselves become victims and exhibit more aggressive, antisocial, fearful, and inhibited behaviors. Such children display more anxiety, aggression and temperamental problems.

(7) Women and children are at an elevated risk of violence during the process of separation or divorce.

(8) Fifty to 70 percent of men who abuse their spouses or partners also abuse their children.

(9) Up to 75 percent of all domestic assaults reported to law enforcement agencies were inflicted after the separation of the couple.

(10) In one study of spousal homicide, over ½ of the male defendants were separated from their victims.

(11) Seventy-three percent of battered women seeking emergency medical services do so after separation.

(12) The National Council of Juvenile and Family Court Judges includes the option of visitation centers in their Model Code on Domestic and Family Violence.

**SEC. 4. GRANTS TO STATES TO PROVIDE FOR SUPERVISED VISITATION CENTERS**

(a) IN GENERAL.—The Secretary of Health and Human Services (in this Act referred to as the ''Secretary'') is authorized to award grants to States to enable States to enter into contracts and cooperative agreements with public or private nonprofit entities to assist such entities in establishing and operating supervised visitation centers for the purposes of facilitating supervised visitation and visitation exchange.

(b) CONSIDERATIONS.—In awarding such grants, contracts, and cooperative agreements under subsection (a), the Secretary shall take into account—

(1) the number of families to be served by the proposed visitation center to be established under the grant, contract, or agreement;

(2) the extent to which the proposed supervised visitation centers serve underserved populations; and

(3) the extent to which the applicant demonstrates cooperation and collaboration with advocates in the local community served, including the State domestic violence coalition, State sexual assault coalition, local shelters, and programs for domestic violence and sexual assault victims.

(c) USE OF FUNDS.—

(1) IN GENERAL.—Amounts provided under a grant, contract, or cooperative agreement awarded under this section shall be used to establish supervised visitation centers and for the purposes described in section 2. Individuals shall be permitted to use the services provided by the center on a sliding fee basis.

(2) APPLICANT REQUIREMENTS.—The Secretary shall award grants, contracts, and cooperative agreements under this Act in accordance with such regulations as the Secretary may promulgate. The Secretary shall give priority in awarding grants, contracts, and cooperative agreements under this Act to States that consider domestic violence in making a custody decision. An applicant awarded such a grant, contract, or cooperative agreement shall—

(A) demonstrate recognized expertise in the area of family violence and a record of high quality service to victims of domestic violence and sexual assault;

(B) demonstrate collaboration with and support of the State domestic violence coalition, sexual assault coalition and local domestic violence and sexual assault shelter or program in the locality in which the supervised visitation center will be operated; and

(C) provide long-term supervised visitation and visitation exchange services to promote continuity and stability.

(d) REPORTING AND EVALUATION.—

(1) REPORTING.—Not later than 60 days after the end of each fiscal year, the Secretary shall submit to Congress a report that includes information concerning—

(A) the number of individuals served and the number of individuals turned away from services categorized by State and the type of presenting problems that underlie the need for supervised visitation or visitation exchange, such as domestic violence, child abuse, sexual assault, emotional or other physical abuse, or a combination of such factors;

(B) the numbers of supervised visitations or visitation exchanges ordered during custody determinations under a separation or divorce decree or protection order, through child protection services, or through other social services agencies;

(C) the process by which children or abused partners are protected during visitations,

temporary custody transfers and other activities for which the supervised visitation centers are created;

(D) safety and security problems occurring during the reporting period during supervised visitations or at visitation centers including the number of parental abduction cases;

(E) the number of parental abduction cases in a judicial district using supervised visitation services, both as identified in criminal prosecution and custody violations; and

(F) any other appropriate information designated in regulations promulgated by the Secretary.

(2) EVALUATION.—In addition to submitting the reports required under paragraph (1), an entity receiving a grant, contract or cooperative agreement under this Act shall have a collateral agreement with the court, the child protection social services division of the State, and local domestic violence agencies or State and local domestic violence coalitions to evaluate the supervised visitation center operated under the grant, contract or agreement. The entities conducting such evaluations shall submit a narrative evaluation of the center to both the center and the grantee.

(e) FUNDING.—

(1) IN GENERAL.—There shall be made available from amounts contained in the Violent Crime Reduction Trust Fund established under title XXXI of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211 et seq.), $65,000,000 for each of the fiscal years 1998 through 2000 for the purpose of awarding grants, contracts, and cooperative agreements under this Act.

(2) DISTRIBUTION.—Of the amounts made available to carry out this Act for each fiscal year, not less than 90 percent of such amount shall be used to award grants, contracts, or cooperative agreements.

(3) DISBURSEMENT.—Amounts made available under this Act shall be disbursed as categorical grants through the 10 regional offices of the Department of Health and Human Services.

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By Mr. CAMPBELL (for himself and Mr. INOUYE)

S. 1130. A bill to provide for the assessment of fees by the National Indian Gaming Commission, and for other purposes; to the Committee on Indian Affairs.

THE INDIAN GAMING ENFORCEMENT AND INTEGRITY ACT

Mr. CAMPBELL. Mr. President, today I introduce the Indian Gaming Enforcement and Integrity Act of 1997. The purpose of this legislation is to reform the current regulatory fee structure administered by the National Indian Gaming Commission [NIGC], the regulatory agency responsible for monitoring and regulating Indian tribal government gaming. The essence of any regulatory agency is in its ability to monitor activities within its purview and to act decisively in enforcing violations of the law. The NIGC is no different and it has depended on regulatory assessments and Federal appropriations to carry out these vital roles.

When Congress enacted and the President signed into law, the Indian Gaming Regulatory Act [IGRA], two principal goals were sought: To provide a statutory basis for the operation of Indian gaming as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments; and, second, to provide a statutory basis for the regulation of the Indian gaming industry to shield it from corrupting influences.

Since its enactment in 1988, the Indian gaming industry has grown tremendously, where today it is a multi-billion dollar industry. As a result, the IGRA is beginning to provide many tribal governments with the wherewithal to provide basic services to their members. Where poverty once reigned on Indian reservations, economic opportunity now abounds. In many cases, tribal governments are able to employ large numbers of their own members, as well as non-Indians from surrounding communities. Further, it is no coincidence that in many communities around the Nation, welfare rolls have dropped and employment has risen as a direct result of tribal gaming.

The second objective of the IGRA is to provide adequate regulation to shield Indian gaming from corruption influences and to ensure the games are fair, and conducted in accordance with all applicable laws. IGRA established the National Indian Gaming Commission and empowered it to monitor Indian gaming and to regulate certain aspects of Indian gaming. The act authorizes the Commission to assess regualtory fees on these gaming activities. In addition to these assessed fees, the act authorizes an annual Federal appropriation to complement the funds available for the efficient operation of the Commission.

To date, the Commission is responsible for monitoring and regulating 273 Indian gaming establishments operated by 184 tribes in 28 States. While it attempts to keep up with this tremendous growth, the Commission is currently statutorily constrained from securing the level of funding it needs to fulfill its mandates under the law.

Current law authorizes the NIGC to assess fees on class II gaming activities at a level not to exceed $1.5 million per year. In addition to Federal appropriations of $1 million over the last 3 fiscal years, and other fees collected, the NIGC has been operating on a budget that slightly exceeds $3 million.

To further illustrate the funding dilemma of the NIGC, the Committee on Indian Affairs conducted an oversight hearing on July 10, 1997 to review the current Indian gaming regulatory fee structure. Testimony provided to the committee indicated that for fiscal year 1997, the Commission has an overall operating budget of $4.3 million which consists of, a $1 million direct appropriation, $1.5 million in fees assessed on class II tribal gaming revenue, and $1.8 million in unobligated funds from prior years. However, for fiscal year 1998 it is indicated that funds from prior year unobligated balances would be nearly depleted, resulting in a projected operational budget of $2.5 million to $3.0 million for fiscal year 1998. According to the NIGC, without additional funding reductions in staff would take place, with a commensurate decrease in its regulatory, compliance and enforcement efforts.

Further, testimony indicated that greater resources need to be available to the NIGC in order to meet their statutorily mandated responsibilities. To accomplish this the NIGC proposed expanding their collection to class III gaming activities

As a result of the hearing, I have developed legislation that reflects testimony provided by the NIGC and tribal interest. This legislation will require the NIGC to assess minimum mandatory fees on each gaming operation that conducts a gaming activity regulated under the act. In addition to these minimum fees, the Commission is authorized to assess fees on class II gaming and on class III gaming. In order to provide a reasonable fee assessment approach, the legislation provides for maximum rates of not more than 2.5 percent on the gross revenues of class II activities; and not more than .5 percent on the gross revenues of class III activities.

In addition to these maximum rates, the bill provides for a phased in approach so that fees collected on class II activities shall not exceed $5 million in fiscal year 1998, $8 million in fiscal year 1999, and $10 million in fiscal year 2000. Similarly, fees collected on class III activities shall not exceed $3 million in fiscal year 1998, $4 million in fiscal year 1999, and $5 million in fiscal year 2000.

The Commission is required to take into account its duties and the services it provides to Indian tribal gaming in setting the annual fees under the act. The legislation creates a special fund in the U.S. Treasury for amounts equal to the fees paid by the gaming operations, and requires that all amounts deposited into the special fund shall be used only to fund the activities of the Commission under the IGRA. Because the United States maintains a special relationship with the Indian tribes, and given its legitimate role in providing services to the tribes, the bill I am introducing retains a Federal appropriation to defray the costs incurred by the Commission in carrying out its duties under the IGRA.

As I have stated before, it is our obligation to make sure that we protect the interests of Native Americans and, at the same time, protect the interest of those who participate in Indian Gaming.

This legislation seeks to ensure the integrity of the Indian gaming industry by providing the tools necessary to the agency responsible for regulating this industry. That is why I urge my colleagues to join me in supporting it.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1130

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. ASSESSMENT OF FEES.**

(a) IN GENERAL.—Section 18(a) of the Indian Gaming Regulatory Act (25 U.S.C. 2717(a)) is amended—

(1) by redesignating paragraphs (4) through (6) as paragraphs (5) through (7), respectively;

(2) by striking ''(a)(1)'' and all that follows through the end of paragraph (3) and inserting the following:

''(a) ANNUAL FEES.—

''(1) MINIMUM REGULATORY FEES.—In addition to assessing fees pursuant to a schedule established under paragraph (2), the Commission shall require each gaming operation that conducts a class II or class III gaming activity that is regulated by this Act to pay to the Commission, on a quarterly basis, a minimum regulatory fee in an amount equal to $250.

''(2) CLASS II AND CLASS III GAMING FEES.—

''(A) CLASS II GAMING FEES.—

''(i) IN GENERAL.—The Commission shall establish a schedule of fees to be paid to the Commission that includes fees for each class II gaming activity that is regulated by this Act.

''(ii) RATE OF FEES.—For each gaming activity covered under the schedule established under clause (i), the rate of fees imposed under that schedule shall not exceed 2.5 percent of the gross revenues of that gaming activity.

''(iii) AMOUNT OF FEES ASSESSED.—Subject to paragraph (3), the total amount of fees imposed during any fiscal year under the schedule established under clause (i) shall not exceed—

''(I) $5,000,000 for fiscal year 1998;

''(II) $8,000,000 for fiscal year 1999; and

''(III) $10,000,000 for fiscal year 2000, and for each fiscal year thereafter.

''(B) CLASS III GAMING FEES.—

''(i) IN GENERAL.—The Commission shall establish a schedule of fees to be paid to the Commission that includes fees for each class III gaming activity that is regulated by this Act.

''(ii) RATE OF FEES.—For each gaming activity covered under the schedule established under clause (i), the rate of fees imposed under that schedule shall not exceed 0.5 percent of the gross revenues of that gaming activity.

''(iii) AMOUNT OF FEES ASSESSED.—Subject to paragraph (3), the total amount of fees imposed during any fiscal year under the schedule established under clause (i) shall not exceed—

''(I) $3,000,000 for fiscal year 1998;

''(II) $4,000,000 for fiscal year 1999; and

''(III) $5,000,000 for fiscal year 2000, and for each fiscal year thereafter.

''(3) GRADUATED FEE LIMITATION.—

''(A) IN GENERAL.—The aggregate amount of fees collected under paragraph (2) shall not exceed—

''(i) $8,000,000 for fiscal year 1998;

''(ii) $12,000,000 for fiscal year 1999; and

''(iii) $15,000,000 for fiscal year 2000, and for each fiscal year thereafter.

''(B) FACTORS FOR CONSIDERATION.—In assessing and collecting fees under this section, the Commission shall take into account the duties of, and services provided by, the Commission under this Act.

''(4) SPECIAL FUND.—The Secretary of the Treasury shall establish a special fund into which the Secretary of the Treasury shall deposit amounts equal to the fees paid under this subsection. The amounts deposited into the special fund shall be used only to fund the activities of the Commission under this Act.'';

(3) in paragraph (5), as redesignated by paragraph (1) of this section, by striking ''(5) Failure'' and inserting the following:

''(5) CONSEQUENCES OF FAILURE TO PAY FEES.—Failure'';

(4) in paragraph (6), as redesignated by paragraph (1) of this section, by striking ''(6) To the extent'' and inserting the following:

''(6) CREDIT.—To the extent''; and

(5) in paragraph (7), as redesignated by paragraph (1) of this section, by striking ''(7) For purposes of this section,'' and inserting the following:

''(7) GROSS REVENUES.—For purposes of this section,''.

(b) BUDGET OF COMMISSION.—Section 18(b) of the Indian Gaming Regulatory Act (25 U.S.C. 2717(b)) is amended—

(1) by striking ''(b)(1) The Commission'' and inserting the following:

''(b) REQUESTS FOR APPROPRIATIONS.—

''(1) IN GENERAL.—The Commission'';

(2) by striking paragraph (2) and inserting the following:

''(2) CONTENTS OF BUDGET.—For fiscal year 1998, and for each fiscal year thereafter, the budget of the Commission may include a request for appropriations, as authorized by section 19, in an amount equal to the sum of—

''(A)(i) for fiscal year 1998, an estimate (determined by the Commission) of the amount of funds to be derived from the fees collected under subsection (a) for that fiscal year; or

''(ii) for each fiscal year thereafter, the amount of funds derived from the fees collected under subsection (a) for the fiscal year preceding the fiscal year for which the appropriation request is made; and

''(B) $1,000,000.''.

**SEC. 2. AUTHORIZATION OF APPROPRIATIONS.**

Section 19 of the Indian Gaming Regulatory Act (25 U.S.C. 2718) is amended to read as follows:

**''SEC. 19. AUTHORIZATION OF APPROPRIATIONS.**

''Subject to section 18, for fiscal year 1998, and for each fiscal year thereafter, there are authorized to be appropriated to the Commission an amount equal to the sum of—

''(1)(A) for fiscal year 1998, an estimate (determined by the Commission) of the amount of funds to be derived from the fees collected under subsection (a); or

''(B) for each fiscal year thereafter, the amount of funds derived from the fees collected under subsection (a) for the fiscal year preceding the fiscal year; and

''(2) $1,000,000.''.

Mr. INOUYE. Mr. President, I am pleased to join my chairman today, Senator BEN NIGHTHORSE CAMPBELL, as a cosponsor of legislation to provide for an amendment in authorizing legislation that will enable the National Indian Gaming Commission to adjust the manner in which fees are imposed on the gaming operations that are subject to regulation under the Indian Gaming Regulatory Act of 1988.

Mr. President, it has been 9 years since the Indian Gaming Regulatory Act was enacted into law. In the ensuing years, there has been a substantial increase in the number of tribal government-sponsored gaming operations, as well as a significant shift in the number of operations that are engaged in the conduct of class III gaming operations.

The bill we introduce today might be considered as companion legislation to a bill introduced earlier this week by Senator JOHN MCCAIN, and a bill that Senator CAMPBELL is developing for introduction in the fall. All three measures are intended to reflect the contemporary realities of tribal gaming and the need for a regulatory framework that can respond to the growth in Indian gaming.

Mr. President, we proceed with this separate legislation because of the pressing need to assure that the Commission is adequately funded, and that the Commission has the capacity, independent of Federal appropriations, to address a far wider array of regulatory demands than we could have anticipated in 1988.

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By Mr. MACK:

S. 1131. A bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit; to the Committee on Finance.

RESEARCH AND EXPERIMENTATION TAX CREDIT LEGISLATION

Mr. MACK. Mr. President, we have good reason to celebrate what we have just accomplished by passing the Taxpayer Relief Act of 1997.

We set out to help families pay for the education of their kids. It's done. We set out to provide a $500 credit for children. It's done. We set out to provide meaningful death tax relief. It's done. We set out to expand IRA's to encourage savings. It's done. We set out to provide significant capital gains relief. And it's done, too.

The Taxpayer Relief Act is a great victory for the American people. But we cannot rest on this accomplishment, when there is much else that needs to be done. I am today introducing legislation to permanently extend the research and experimentation tax credit. In the tax bill we just passed, the research and experimentation tax credit is extended a mere 13 months, to June 30, 1998. This extension is disappointing.

The research credit has provided a valuable economic incentive for U.S. companies to increase their investment in research and development in order to maintain their competitive edge in the global marketplace. A permanent extension of the research credit is critical to fast-growing research-intensive companies such as those in the computer, telecommunications, and biotechnology industries.

For these companies, an incentive to increase investment in research plays a critical role in determining whether future research projects, many of which span many years in length, are started, continued, or abandoned. The incentive benefit of the current research credit is reduced because of its temporary and uncertain nature. The bill I am today introducing will correct this problem, and make the research tax credit an incentive that our high-technology companies can count on.

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By Mr. BINGAMAN:

S. 1132. A bill to modify the boundaries of the Bandelier National Monument to include the lands within the headwaters of the Upper Alamo Watershed which drain into the monument and which are not currently within the

jurisdiction of a Federal land management agency, to authorize purchase or donation of those lands, and for other purposes; to the Committee on Energy and Natural Resources.

THE BANDELIER NATIONAL MONUMENT ADMINISTRATIVE IMPROVEMENT AND WATERSHED PROTECTION ACT OF 1997

Mr. BINGAMAN. Mr. President, I rise today to introduce a bill to extend the boundaries of the Bandelier National Monument. Since 1916 when President Wilson created the monument to protect the ''archeological resources of a vanished people,'' both Congress and the President have adjusted the monument's boundaries on numerous occasions to protect these treasures, and the ecological balance within the monument. The latest example was in 1976, when Congress set aside over 70 percent of the monument to create the Bandelier Wilderness area. Because we have acted to conserve this valuable land in the past, today's visitors to the monument, the people of New Mexico and Americans from around the Nation, have a wonderful place to go to. In the same morning you can see varieties of wildlife, including herds of elk and deer, and explore the homes of early native American peoples. This bill continues that foresighted tradition of protection.

The greatest threat to the monument at this time is potential development in the upper watershed that drains into the park. Not only could this impair the esthetic experience of visitors to the monument, it could seriously harm the ecological balance within the monument. The potential for soil erosion, flooding, and siltation of streams from upstream development is of grave concern, and this bill seeks to address the problem. Under this bill the boundaries of the monument would be extended to include all of the lands which are not currently in public ownership in the upper Alamo watershed which drains into the monument.

This bill will allow the Park Service to enter into agreements with private landowners to either purchase their land, or to restrict the development of their land in order to protect the monument. I want to note that the current landowners support this, and have stated that they would like to enter into such agreements that will protect the monument for future generations. Because of this, I have written this bill to give the Park Service authority to enter into contracts with willing sellers. This bill does not give the Park Service condemnation authority.

Mr. President, because we have a situation where we can protect this treasure for generations to come with the help and cooperation of the private landowners that neighbor the monument, I am pleased to offer this bill.

Mr. President I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1132

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Bandelier National Monument Administrative Improvement and Watershed Protection Act of 1997.''

**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress finds that:

(1) Bandelier National Monument (hereinafter, the Monument) was established by Presidential proclamation on February 11, 1916, to preserve the archeological resources of a ''vanished people, with as much land as may be necessary for the proper protection thereof * * *'' (No. 1322; 39 Stat. 1746).

(2) At various times since its establishment, the Congress and the President have adjusted the Monument's boundaries and purpose to further preservation of archeological and natural resources within the Monument:

(A) On February 25, 1932, the Otowi Section of the Santa Fe National Forest (some 4,699 acres of land) was transferred to the Monument from the Santa Fe National Forest (Presidential Proclamation No. 1191; 17 Stat. 2503);

(B) In December 1959, 3,600 acres of Frijoles Mesa were transferred to the National Park Service from the Atomic Energy Committee (hereinafter, AEC) and subsequently added to the Monument on January 9, 1991, because of ''pueblo-type archeological ruins germane to those in the Monument'' (Presidential Proclamation No. 3388);

(C) On May 27, 1963, Upper Canyon, 2,882 acres of land previously administered by the AEC, was added to the Monument to preserve ''their unusual scenic character together with geologic and topographic features, the preservation of which would implement the purposes'' of the Monument (Presidential Proclamation No. 3539);

(D) In 1976, concerned about upstream land management activities that could result in flooding and erosion in the Monument, Congress included the headwaters of the Rito de los Frijoles and the Cañada de Cochiti Grant (a total of 7,310 acres) within the Monument's boundaries (Pub. L. 94–578; 90 Stat. 2732); and

(E) In 1976, Congress created the Bandelier Wilderness, a 23,267-acre area that covers over 70 percent of the Monument.

(3) The Monument still has potential threats from flooding, erosion, and water quality deterioration because of the mixed ownership of the upper watersheds along its western border, particularly in Alamo Canyon.

(b) PURPOSES.—The purposes of this Act are to modify the boundary of the Monument to allow for acquisition and enhanced protection of the lands within the monument's upper watershed.

**SEC. 3. BOUNDARY MODIFICATION.**

Effective on the date of enactment of this Act, the boundaries of the Monument shall be modified to include approximately 935 acres of land comprised of the Elk Meadows subdivision, the Gardner parcel, the Clark parcel, and the Baca Land & Cattle Co. lands within the Upper Alamo watershed as depicted on the National Park Service map entitled ''Alamo Headwaters Proposed Additions'' dated 06/97. Such map shall be on file and available for public inspection in the offices of the Director of the National Park Service, Department of the Interior.

**SEC. 4. TRANSFER AND ACQUISITION OF LANDS.**

Within the boundaries designated by this Act, the Secretary of the Interior is authorized to acquire lands (or interests in land such as he determines shall adequately protect the Monument from flooding, erosion, and degradation of its drainage waters) by donation, purchase with donated or appropriated funds, exchange, or transfer of lands acquired by other Federal agencies.

**SEC. 5. ADMINISTRATION.**

The Secretary of the Interior, acting through the Director of the National Park Service, shall manage the national monument, including lands added to the Monument by this Act, in accordance with this Act and the provisions of law generally applicable to units of the National Park System, including the Act of August 25, an act to establish a National Park Service (39 Stat. 535; 16 U.S.C. 1 et seq.), and such specific legislation as heretofore has been enacted regarding the Monument.

**SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated such sums as may be necessary to carry out the purpose of this Act.

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By Mrs. MURRAY (for herself, Mr. CRAIG, Mr. WYDEN, Mr. BAUCUS, Mr. MURKOWSKI, Mr. SMITH of Oregon, Mr. BURNS, Mr. GORTON, and Mr. KEMPTHORNE):

S. 1134. A bill granting the consent and approval of Congress to an interstate forest fire protection compact; to the Committee on the Judiciary.

THE NORTHWEST WILDFIRE COMPACT

Mrs. MURRAY. Mr. President, today I am introducing the Northwest Wildland Fire Protection Agreement. This compact will help our States throughout the Northwest respond more quickly and efficiently to wildfires. Senators CRAIG, WYDEN, MURKOWSKI, KEMPTHORNE, GORTON, G. SMITH, BAUCUS, and BURNS have joined me as original cosponsors because this compact affects all of our States of Washington, Oregon, Alaska, Idaho, and Montana. It establishes an agreement with the provinces of Alberta, British Columbia, and the Yukon Territory to mutually aid in prevention, pre-suppression and control of forest fires.

Mr. State's Commissioner of Public Lands, Jennifer Belcher, brought this compact to my attention. She explained how for the State of Washington, this means the Department of Natural Resources will have access to the excellent firefighting tools of British Columbia, including helicopters and other aircraft stationed close to the border. This will increase her ability to quickly mobilize forces to suppress wildfires that might otherwise get out of control.

The Washington DNR has been fighting wildfires since the early 1900's. According to a DNR Forest Fire Study, in the past 25 years, the department has fought 28,000-plus wildfires involving more than 370,000 acres of Washington forest land. In recent years, firefighting budgets have decreased and the intensity of fires has increased, with the terrible fire season of 1994 breaking the record at 79,000 acres burned in Washington. We need this compact to enable our States to better protect the life and property of our citizens.

All eight affected States and provinces have agreed to this compact. However, before the States and Provinces can legally enter this agreement, the U.S. Congress must pass enabling legislation. Congress did so in 1952 with the wildfire compact after which this legislation was patterned, which was signed by five northeastern States and eastern Provinces, and remains in effect today.

I urge my colleagues to help us move this compact through the process so our States will be poised to quickly and cost-efficiently suppress dangerous wildfires. I would also like to urge colleagues to support another compact introduced by Senator CRAIG and cosponsored by all Northwest Senators to help us join forces in cases of natural disasters.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1134

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CONSENT OF CONGRESS.**

(a) IN GENERAL.—The consent and approval of Congress is given to an interstate forest fire protection compact, as set out in subsection (b).

(b) COMPACT.—The compact reads substantially as follows:

**"THE NORTHWEST WILDLAND FIRE PROTECTION AGREEMENT**

''THIS AGREEMENT is entered into by and between the State, Provincial, and Territorial wildland fire protection agencies signatory hereto, hereinafter referred to as ''Members''.

''FOR AND IN CONSIDERATION OF the following terms and conditions, the Members agree:

**"Article I**

''1.1 The purpose of this Agreement is to promote effective prevention, presuppression and control of forest fires in the Northwest wildland region of the United States and adjacent areas of Canada (by the Members) by providing mutual aid in prevention, presuppression and control of wildland fires, and by establishing procedures in operating plans that will facilitate such aid.

**"Article II**

''2.1 The agreement shall become effective for those Members ratifying it whenever any two or more Members, the States of Oregon, Washington, Alaska, Idaho, Montana, or the Yukon Territory, or the Province of British Columbia, or the Province of Alberta have ratified it.

''2.2 Any State, Province, or Territory not mentioned in this Article which is contiguous to any Member may become a party to this Agreement subject to unanimous approval of the Members.

**"Article III**

''3.1 The role of the Members is to determine from time to time such methods, practices, circumstances and conditions as may be found for enhancing the prevention, presuppression, and control of forest fires in the area comprising the Member's territory; to coordinate the plans and the work of the appropriate agencies of the Members; an to coordinate the rendering of aid by the Members to each other in fighting wildland fires.

''3.2 The Members may develop cooperative operating plans for the programs covered by this Agreement. Operating plans shall include definition of terms, fiscal procedures, personnel contacts, resources available, and standards applicable to the program. Other sections may be added as necessary.

**"Article IV**

''4.1 A majority of Members shall constitute a quorum for the transaction of its general business. Motions of Members present shall be carried by a simple majority except as stated in Article II. Each Member will have one vote on motions brought before them.

**"Article V**

''5.1 Whenever a Member requests aid from any other Member in controlling or preventing wildland fires, the Members agree, to the extent they possibly can, to render all possible aid.

**"Article VI**

''6.1 Whenever the forces of any Member are aiding another Member under this Agreement, the employees of such Member shall operate under the direction of the officers of the Member to which they are rendering aid and be considered agents of the Member they are rendering aid to and, therefore, have the same privileges and immunities as comparable employees of the Member to which the are rendering aid.

''6.2 No Member or its officers or employees rendering aid within another State, Territory, or Province, pursuant to this Agreement shall be liable on account of any act or omission on the part of such forces while so engaged, or on account of the maintenance or use of any equipment or supplies in connection therewith to the extent authorized by the laws of the Member receiving the assistance. The receiving Member, to the extent authorized by the laws of the State, Territory, or Province, agrees to indemnify and save-harmless the assisting Member from any such liability.

''6.3 Any Member rendering outside aid pursuant to this Agreement shall be reimbursed by the Member receiving such aid for any loss or damage to, or expense incurred in the operation of any equipment and for the cost of all materials, transportation, wages, salaries and maintenance of personnel and equipment incurred in connection with such request in accordance with the provisions of the previous section. Nothing contained herein shall prevent any assisting Member from assuming such loss, damage, expense or other cost or from loaning such equipment or from donating such services to the receiving Member without charge or cost.

''6.4 for purposes of the Agreement, personnel shall be considered employees of each sending Member for the payment of compensation to injured employees and death benefits to the representatives of deceased employees injured or killed while rendering aid to another Member pursuant to this Agreement.

''6.5 The Members shall formulate procedures for claims and reimbursement under the provisions of this Article.

**"Article VII**

''7.1 When appropriations for support of this agreement, or for the support of common services in executing this agreement, are needed, costs will be allocated equally among the Members.

''7.2 As necessary, Members shall keep accurate books of account, showing in full, its receipts and disbursements, and the books of account shall be open at any reasonable time to the inspection of representatives of the Members.

''7.3 The Members may accept any and all donations, gifts, and grants of money, equipment, supplies, materials and services from the Federal or any local government, or any agency thereof and from any person, firm or corporation, for any of its purposes and functions under this Agreement, and may receive and use the same subject to the terms, conditions, and regulations governing such donations, gifts, and grants.

**"Article VIII**

''8.1 Nothing in this Agreement shall be construed to limit or restrict the powers of any Member to provide for the prevention, control, and extinguishment of wildland fires or to prohibit the enactment of enforcement of State, Territorial, or Provincial laws, rules or regulations intended to aid in such prevention, control and extinguishment of wildland fires in such State, Territory, or Province.

''8.2 Nothing in this Agreement shall be construed to affect any existing or future Cooperative Agreement between Members and/or their respective Federal agencies.

**"Article IX**

''9.1 The Members may request the United States Forest Service to act as the coordinating agency of the Northwest Wildland Fire Protection Agreement in cooperation with the appropriate agencies for each Member.

''9.2 The Members will hold an annual meeting to review the terms of this Agreement, any applicable Operating Plans, and make necessary modifications.

''9.3 Amendments to this Agreement can be made by simple majority vote of the Members and will take effect immediately upon passage.

**"Article X**

''10.1 This Agreement shall continue in force on each Member until such Member takes action to withdraw therefrom. Such action shall not be effective until 60 days after notice thereof has been sent to all other Members.

**"Article XI**

''11.1 Nothing is this Agreement shall obligate the funds of any Member beyond those approved by appropriate legislative action.''.

**SEC. 2. OTHER STATES.**

Without further submission of the compact, the consent of Congress is given to any State to become a party to it in accordance with its terms.

**SEC. 3. RIGHTS RESERVED.**

The right to alter, amend, or repeal this Act is expressly reserved.

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By Mr. McCONNELL:

S. 1135. A bill to provide certain immunities from civil liability for trade and professional associations, and for other purposes; to the Committee on the Judiciary.

THE TRADE AND PROFESSIONAL ASSOCIATION FREE FLOW OF INFORMATION ACT

Mr. McCONNELL. Mr. President, I rise today to introduce the Trade and Professional Association Free Flow of Information Act, and ask my colleagues to join me by co-sponsoring this important legislation.

Our society is increasingly litigious, especially in the area of product liability. Unfortunately, complex product liability litigation ensnares trade and professional associations that do not manufacture, buy, or sell the product. America's litigation maze often traps associations who do nothing more than publish good-faith factual information for its members regarding various products.

This service is particularly helpful to small business owners who become involved in product litigation, but lack the funds to conduct expensive and time-consuming product research. Additionally, trade and professional associations help their members to avoid litigation by alerting them to critical characteristics of different products. This research and information service is clearly in the best interest of both consumers and small businesses.

My bill would acomplish three goals. First, it grants trade and professional associations limited protection from liability when acting in good faith to provide information to their members. The associations may still be held liable for fraudulently or recklessly distributing false information to their members.

Second, before information may be subpoenaed from an association, a clear case must be made that the information is vital to the case and is unavailable from any other source. Let me point out, however, that this provision does not prevent associations from being served with subpoenas. It merely ensures that the information requested is vital to a particular action and unavailable from any other source.

Finally, the bill establishes a qualified privilege between an association and its members to ensure that confidential materials can be provided for the benefit of association members. This privilege is not absolute—it may be overcome upon proof that the party seeking the materials has a compelling need for the information. This provision is based on a joint defense privilege currently recognized by state and federal courts.

Additionally, this bill includes an opt-out provision similar to the one we included in the Volunteer Protection Act, which the President recently signed into law. This provision permits a State to opt-out of the bill's coverage in any civil action in which all parties are citizens of the State.

Mr. President, the need for this bill was recently discussed in an article of the Legal Times. I ask unanimous consent that this article be published in the RECORD.

In closing, I would like to emphasize that this bill will allow associations to continue to actively disseminate valuable information to their members, while safeguarding current legal protections against fraud and abuse. The goal of the Free Flow of Information Act is one that I believe I share with a majority of my colleagues—a decrease in costly litigation coupled with an increase in the flow of information between associations and their members. I urge my colleagues to cosponsor this important legislation.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1135

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Trade and Professional Association Free Flow of Information Act of 1997''.

**SEC. 2. FINDINGS; PURPOSES.**

(a) FINDINGS.—Congress finds that—

(1) trade and professional associations serve the public interest by conducting research, collecting and distributing information, and otherwise providing services to their members with regard to products and materials purchased and used by those members;

(2) in the decade preceding the date of enactment of this Act, many large class action lawsuits have been filed against manufacturers for allegedly defective products;

(3) as a result of the lawsuits referred to in paragraph (2), many members of trade and professional associations who are consumers of those products have relied increasingly on trade and professional associations for information concerning those products, including information concerning—

(A) the conditions under which such a product may be used effectively;

(B) whether it is necessary to repair or replace such a product, and if such a repair or replacement is necessary, the appropriate means of accomplishing that repair or replacement; and

(C) any litigation concerning such a product;

(4) trade and professional associations have, with an increasing frequency, been served broad and burdensome third-party subpoenas from litigants in product defect lawsuits, including class action lawsuits;

(5) members of trade and professional associations are seeking potentially beneficial information relating to product defects, quality, or performance from the trade and professional associations;

(6) trade and professional associations have been subject to lawsuits concerning methods of collection and dissemination of that information;

(7) the burden of responding to third-party subpoenas in product defect lawsuits and the threat of litigation have had a substantial chilling effect on the ability and willingness of trade and professional associations to disseminate information described in paragraph (5) to members, and the threat that information provided on a confidential basis to members could be subject to discovery in a civil action also has a chilling effect;

(8) because of the national scope of the problems described in paragraphs (1) through (7), it is not possible for States to fully address the problems by enacting State laws; and

(9) the Federal Government has the authority under the United States Constitution (including article I, section 8, clause 3 of the Constitution and the 14th amendment to the Constitution) to remove barriers to interstate commerce and protect due process rights.

(b) PURPOSES.—The purposes of this Act are to promote the free flow of goods and services and lessen burdens on interstate commerce in accordance with the authorities referred to in subsection (a)(9) by ensuring the free flow of information concerning product defects, quality, or performance among trade and professional associations and their members.

**SEC. 2. DEFINITIONS.**

In this Act:

(1) PRODUCT.—

(A) IN GENERAL.—The term ''product'' means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state that—

(i) is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;

(ii) is produced for introduction into trade or commerce;

(iii) has intrinsic economic value; and

(iv) is intended for sale or lease to persons for commercial or personal use, including improvements to real property and fixtures that are affixed or incorporated into those improvements.

(B) EXCLUSIONS.—The term does not include—

(i) tissue, organs, blood, and blood products used for therapeutic or medical purposes, except to the extent that such tissue, organs, blood, and blood products (or the provision thereof) are subject, under applicable State law, to a standard of liability other than negligence; or

(ii) electricity, natural gas, or steam.

(2) STATE.—The term ''State'' means each of the several States of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(3) TRADE OR PROFESSIONAL ASSOCIATION.—The term ''trade or professional association'' means an organization described in paragraph (3), (4), (5), or (6) of section 501(c) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of such Code.

**SEC. 3. QUALIFIED EXEMPTION FROM CIVIL LIABILITY.**

(a) IN GENERAL.—

(1) IN GENERAL.—Except as provided in subsection (b), a trade or professional association shall not be subject to civil liability relating to harm caused by the provision of information described in paragraph (2) by the trade or professional association to a member of the trade or professional association.

(2) INFORMATION.—The information described in this paragraph is information relating to a product concerning—

(A) the quality of the product;

(B) the performance of the product; or

(C) any defect of the product.

(3) APPLICABILITY.—This subsection applies with respect to civil liability under Federal or State law.

(b) EXCEPTION FOR LIABILITY.—Subsection (a) shall not apply with respect to harm caused by an act of a trade or professional association that a court determines, on the basis of clear and convincing evidence, to have been caused by the trade or professional association by the provision of information described in subsection (a)(2) that the trade or professional association—

(1) knew to be false; or

(2) provided a reckless indifference to the truth or falsity of that information.

**SEC. 4. SPECIAL MOTION TO STRIKE.**

A trade or professional association may file a special motion to strike any claim in any judicial proceeding against the trade or professional association on the ground that the claim is based on an act with respect to which the association is exempt from liability under section 3.

**SEC. 5. REQUIRED PROCEDURES REGARDING SPECIAL MOTION TO STRIKE.**

(a) TREATMENT OF MOTION.—Upon the filing of any motion under section 4—

(1) to the extent consistent with this section, the motion shall be treated as a motion for summary judgment under Rule 56 of the Federal Rules of Civil Procedure (or an equivalent motion under applicable State law); and

(2) the trial court shall hear the motion within a period of time that is appropriate for preferred or expedited motions.

(b) SUSPENSION OF DISCOVERY.—Upon the filing of a motion under section 4, discovery shall be suspended pending a decision on—

(1) the motion; and

(2) any appeal on the ruling on the motion.

(c) BURDEN OF PROOF.—The responding party shall have the burden of proof in presenting evidence that a motion filed under section 4 should be denied.

(d) BASIS OF DETERMINATION.—A court shall make a determination on a motion filed under section 4 on the basis of the facts contained in the pleadings and affidavits filed in accordance with this section.

(e) DISMISSAL.—With respect to a claim that is the subject of a motion filed under section 4, the court shall grant the motion and dismiss the claim, unless the responding party has produced evidence that would be sufficient for a reasonable finder of fact to conclude, on the basis of clear and convincing evidence, that the moving party is not exempt from liability for that claim under section 3.

(f) COSTS.—If a moving party prevails in procuring the dismissal of a claim as a result of a motion made under section 4, the court shall award that party the costs incurred by the party in connection with making the motion, including reasonable attorney and expert witness fees.

**SEC. 6. QUALIFIED EXEMPTION FROM THIRD-PARTY DISCOVERY.**

(a) IN GENERAL.—Notwithstanding any other provision of law, a trade or professional association may only be served with a subpoena in a civil action described in subsection (b) if the party that serves the subpoena first establishes to the court, by clear and convincing evidence that—

(1) the materials or information sought by the subpoena are directly relevant to the civil action; and

(2) the party serving the subpoena has a compelling need for the materials or information because the materials or information are not otherwise available.

(b) CIVIL ACTIONS DESCRIBED.—A civil action described in this subsection is a civil action—

(1) relating to the quality, performance, or defect of a product; and

(2) to which the trade or professional association involved is not a party.

**SEC. 7. SPECIAL MOTION TO QUASH A SUBPOENA.**

A trade or professional association may file a special motion to quash a subpoena on the grounds that the trade or professional association is exempt from any third-party discovery request under section 6.

**SEC. 8. REQUIRED PROCEDURES REGARDING SPECIAL MOTION TO QUASH.**

(a) IN GENERAL.—Upon the filing of any motion under section 7, the trial court shall hear the motion within the period of time that is appropriate for preferred or expedited motions.

(b) SUSPENSION OF COMPLIANCE.—Upon the filing of a motion under section 7, the court shall not compel compliance with the subpoena during the period during which—

(1) the motion is under consideration; or

(2) an appeal on the determination by the court to deny the motion has not resulted in a final ruling by the court on the appeal.

(c) BURDEN OF PROOF.—The responding party shall have the burden of proof in presenting evidence that a motion filed under section 7 should be denied.

(d) BASIS OF DETERMINATION.—A court shall make a determination on a motion filed under section 7 on the basis of the facts contained in the pleadings and affidavits filed in accordance with this section.

(e) QUASHING A SUBPOENA.—The court shall grant a motion filed under section 7 and quash the subpoena that is the subject of the motion, unless the responding party proves, by clear and convincing evidence, that the trade or professional association that received the subpoena is not exempt from responding to the subpoena under section 6.

(f) COSTS.—If a trade or professional association prevails in procuring the quashing of a subpoena as a result of a motion made under section 7, the court shall award the trade or professional association the costs incurred by that trade or professional association in connection with making the motion, including reasonable attorney and expert witness fees.

**SEC. 9. RIGHT TO OBJECT UNDER RULE 45 OF THE FEDERAL RULES OF CIVIL PROCEDURE.**

Nothing in this Act may be construed to impair the right of a trade or professional association to serve written objections under rule 45(c)(2)(B) of the Federal Rules of Civil Procedure, or any similar rule or procedure under applicable State law.

**SEC. 10. QUALIFIED ASSOCIATION-MEMBER PRIVILEGE.**

(a) IN GENERAL.—Except as provided in subsection (b), a member of a trade or professional association shall not be required to disclose any information described in section 3(a)(2), including any materials containing that information, that—

(1) relates to actual or anticipated litigation involving the quality, performance, or defect of a product;

(2) is considered to be confidential by the trade or professional association and that member; and

(3) is communicated by the trade or professional association with the reasonable expectation that the information will—

(A) be used in connection with actual or anticipated litigation; and

(B) be maintained in confidence.

(b) EXCEPTION.—Subsection (a) does not apply in any action in which a party seeking information described in that subsection has established to a court, by clear and convincing evidence, that—

(1) the materials or information sought are directly relevant to an action filed by that party; and

(2) the party has a compelling need for the information because the information is not otherwise obtainable.

**SEC. 11. ELECTION OF STATE REGARDING NON-APPLICABILITY.**

This Act shall not apply to any civil action in a State court with respect to which all of the parties are citizens of that State, if that State enacts, pursuant to applicable State law, a State statute that—

(1) cites the authority of this section;

(2) specifies that the State elects to be exempt from the requirements of this Act pursuant to this section; and

(3) contains no other provisions.

**SEC. 12. PREEMPTION; APPLICABILITY.**

(a) PREEMPTION.—This Act supersedes the laws of any State to the extent such State laws apply to matters to which this Act applies.

(b) APPLICABILITY.—Except as provided in section 11, and subject to subsection (a), this Act applies to any civil action that is pending or commenced in a Federal or State court, on or after the date of enactment of this Act.

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[From the Legal Times, July 28, 1997]

LIMITING LIABILITY—TRADE GROUPS BACK BILL AIMED AT SHIELDING THEM FROM SUITS OVER ADVICE TO MEMBERS

(By T.R. Goldman)

In the fall of 1987, Kenneth Halpern dove into his backyard swimming pool in Mobile, Ala., broke his neck on the pool bottom, and set off a chain of litigation that would send shock waves through the trade association community for years.

Halpern was paralyzed in the dive and died less than a year later. The suit seeking restitution for his death named the pool's builder as a defendant. But Halpern's suit went one step further, also naming as a defendant the pool builders' trade group, the National Spa and Pool Institute.

Unfortunately for the trade group, the Alabama Supreme Court in 1990 bought Halpern's argument, at least in part. By disseminating standards for pool construction to its members, the court reasoned, the trade group opened itself to potential liability for injuries caused in a pool.

While the Pool Institute was not ultimately found liable for Halpern's death, the group spent hundreds of thousands of dollars proving that its standards were in fact sufficient to prevent injury. And the case left behind a menacing state precedent for trade groups of all stripes, leaving them vulnerable to all manner of liability suits.

Earlier this year, with the Alabama pool case and others like it in mind, the trade association world called on Capitol Hill for a legislative fix.

Their savior, they hope, will be Rep. Sonny Bono, the Palm Springs, Calif., Republican who in May introduced the Trade and Professional Association Free Flow of Information Act.

Bono's bill would set a national standard shielding associations from lawsuits when providing information and technical advice to their members. It would also allow associations to refuse to respond to subpoenas—unless the information is available only from the trade group and nowhere else.

The bill would also set up a type of privilege between a trade association and its members so that the confidentiality of documents flowing between the two would be assured.

That's vitally important, explains General Counsel Daniel Durden of the National Association of Home Builders, because the fear of litigation has a chilling effect on the industrywide mediation efforts trade associations are often ideally situated to oversee.

Take, for example, a widget installed in homes across the country. Five years later, the widget fails, due to a design flaw. ''The manufacturer of the widget gets sued, and the people who put them in their homes—our members—get sued,'' Durden says. ''And if it's a widespread problem, our members will call us and say, 'What can you do for us?'

''We can play a role in negotiating among the builders, manufacturers, and potentially the insurance companies in coming up with a stopgap measure, so the consumer of the widget doesn't file suit,'' adds Durden, whose group is actively supporting the Bono bill.

But if the association gets involved in trying to find a settlement, any information shared with it may no longer be privileged, Durden says. And that, in turn, can dissuade members from sharing information.

''The idea is that by acting in a fashion that forwards a resolution, an association shouldn't get slammed,'' he says.

Trial lawyers, of course, are deeply offended by the notion that certain potential defendants should be off-limits, and are vigorously opposed to the Bono bill.

''No association, corporation, or individual should be immunized for responsibility for the injuries they cause,'' Howard Twiggs, outgoing president of the Association of Trial Lawyers of America, said through a spokesman. ''No citizen should be denied the opportunity to hold wrongdoers responsible for their actions.''

Traditionally courts have held that a trade group was obligated only to its members, not

to the general public, for the accuracy and quality of the standards it promulgates for its members. After all, the groups argued, they could not properly be held responsible if a builder failed to follow their guidelines.

But the Alabama Supreme Court ruling changed all that, by holding in King v. National Spa and Pool Institute that the trade association did in fact have a ''duty'' to the public—regardless of whether it had control over its members' behavior. (The named plaintiff is Barbara King, the administrator of Halpem's estate.)

''What this case says is that if you put our standards and somebody uses them, then you can be hauled into court and made to show you used due care in producing them,'' complains David Karmol, general counsel and chief lobbyist of the Alexandria, Va.-based Spa and Pool Institute.

''We did use due process. We got comments from outsiders, from the Consumer Product Safety Commission,'' says Karmol, adding that his group has been disseminating pool standards for 40 years. ''The point is, we did all the right things. But if you have to prove that in court that you did all the right things, you've already lost. We spent half a million dollars winning. I don't know how many associations can afford to win many half-million dollar cases on a regular basis.''

No shortage of groups have been called upon to try.

According to Gerard Jacobs, a co-managing partner in the D.C. office of Chicago's Jenner & Block, trade associations are increasingly being hauled into court as defendants. ''I can tell you that Jenner & Block has a dozen such cases,'' says Jacobs. ''Higher than it's ever been.''

Adds James Clarke, chief lobbyist at the American Society of Association Executives, which is actively supporting Bono's legislation: ''Groups are more and more fearful that litigation will tie them up like pretzels.''

BACK PAIN

Among the hardest hit have been four trade associations that deal with spinal surgery—and are implicated in hundreds of tort claims against the so-called ''pedicle screw,'' an orthopedic device officially approved by the Food and Drug Administration only for use in arm and leg bone operations, though it is widely used in the pedicles of the vertebrae during back surgery as well.

According to hundreds of suits filed in recent years, the Illinois-based North American Spine Society allegedly conspired with pedicle screw manufacturers to help them illegally promote their products for uses not approved by the FDA.

''Because we accepted money from exhibitors for exhibit space, charged them with a registration fee, and got some research funding from them—and then turned around and let certain doctors whom [trial lawyers] call product promotors give talks at our annual meeting . . . we allegedly defrauded our own members into thinking these things were safe,'' complains Eric Muehlbauer, executive director of the Spine Society.

''That's ludicrous,'' he argues. ''Why would we defraud our own members? We were a forum provider, that's all.''

Muehlbauer says more than 500 individuals have sued the trade group for promoting the use of an ''unreasonably dangerous'' product. ''Plaintiffs attorneys are giving each other seminars on how to promote these lawsuits,'' he says, adding that complaints have also been filed against the American Academy of Orthopedic Surgeons, the American Association of Neurological Surgeons, and the Scoliosis Research Society.

But, counters plaintiffs attorney Arnold Levin, by accepting money from pedicle screw vendors, the Spine Society becomes a legitimate defendant. ''By hosting the manufacturers, by giving comfort to them, aiding and assisting them, they became part of the selling arm, they became part of the manufacturer,'' says Levin, a partner in Philadelphia's Levin, Fishbein, Sedran & Berman, which is litigating the issue.

''And they were trading in a product that hadn't been approved for that use by the FDA,'' he adds.

STANDARD PROCEDURE

Down in Alabama, which has a reputation as one of the most favorable places in America for the plaintiffs' bar, trial lawyer Richard Cunningham of Mobile's Cunningham, Bounds, Yance, Crowder & Brown says trade associations are not always the neutral, consumer-friendly forces they often claim to be.

Earlier this month, Cunningham won a potentially multibillion dollar class action in a Mobile County, Ala., circuit court against the Masonite Corp. for installing faculty hard-board siding in more than four million homes. He says many trade associations are not at all interested in consumers, and have nothing more than their members' interests at heart.

''The real problem is when you have a trade association controlled by an industry and they intentionally promulgate minimal standards which do not impose any burden on the industry and do not create a safe product,'' he says.

''The state of the art standard for the industry could be much higher than the minimal standards set, but it will cost them much more money to meet that higher standard,'' Cunningham continues.''But the industry can use the minimal standards to say, 'We were not negligent, we met the existing standard of care.' In fact, there may have been a collusive effort between industry on the whole and the trade association to establish ineffective standards.''

That wasn't necessarily the case in the Masonite decision, which includes a minimum of $47.5 million in legal fees for the dozen or so law firms that took part in the class action. But during the course of litigation, a subpoena was issued to the Palatine, Ill.-based American Hardboard Association for information about the testing of certain hardboard products.

''It is the practice of trial lawyers to go fishing at trade association folks to see if there's anything negative in the files, or whether the association ever warned about this or that happening,'' says Karmol of the Spa and Pool Institute, making the case for a legislative remedy.

''There's an argument to be made that if associations are to advance the public interest, and allow members to talk about things to avoid similar situations in the future, there ought to be some kind of protection.''

In fact, Karmol concedes, the number of times the institute has been named in a lawsuit has not increased over time. ''But I attribute that to our aggressive defense. Most trial lawyers are looking for defendants who will role over and kick in $100,000 to a settlement,'' he says.

While it appears that nothing short of legislation will stop associations from being drawn into court, those who have represented such groups in these cases say there are ways to avoid worsening their plight once there, including maintaining a judicious level of discretion.

If you don't want the court to construe that you have a duty to the public, and hence can be targeted in a lawsuit, don't brag to them about the information you disseminate, says Jacobs, the Jenner & Block partner. And make sure your standards are more than sufficient.

''Do your due diligence,'' counsels Jacobs. ''and don't crow to consumers about the value of your program if it is designed to assist members. It's much more difficult [to defend yourself] when you make pronouncements at large.''

Meanwhile, while the Bono legislation will undoubtedly face stiff opposition in Congress—the trial lawyers remains a formidable foe—supporters are cheered that at least the issue is now getting some attention.

''It's in its infancy,'' acknowledges the ASAE's Clarke, referring to the proposed legislation. ''But there will be lots of work and lots of efforts in this area. We don't want it to be seen as open season on associations.''

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By Mr. DURBIN:

S. 1136. A bill to amend the Employee Retirement Income Security Act of 1974 to provide that the State preemption rules shall not apply to certain actions under State law to protect health insurance policyholders; to the Committee on Labor and Human Resources.

THE EMPLOYEE HEALTH INSURANCE ACCOUNTABILITY ACT

Mr. DURBIN. Mr. President, I rise today to introduce the Employee Health Insurance Accountability Act of 1997. This measure will hold employer-sponsored health maintenance organizations accountable for patient injuries that result from their decisions regarding a patient's medical care.

Due to a loophole in the Employer Retirement Income Security Act of 1974 [ERISA], employer-sponsored health plans can escape responsibility for the effect their treatment decisions have on their patients' health. Many courts have held that ERISA preempts State lawsuits against the entities that provide employee benefits and retirement plans. This includes medical malpractice suits against an employer-sponsored HMO.

There are two primary victims under the current system. The first victims are the patients who are injured, because they are wrongfully denied treatment services by their employer-sponsored HMO's. Let me tell you just one story:

Due to her history of high-risk pregnancies, Ms. Florence Corcoran's physician determined that she should be hospitalized during the waning weeks of her pregnancy. Her employer-sponsored HMO disagreed and only authorized 10 hours a day of home nursing care. While the nurse was off-duty, Ms. Corcoran's unborn child suffered distress and died. Ms. Corcoran sued her employer-sponsored HMO, but the court held that ERISA preempted her claim. Ms. Corcoran, therefore, will never obtain proper redress for the death of her unborn child and her HMO will never be held accountable. She can only sue her doctor—not her employer-sponsored HMO—even though her doctor was not at fault.

Ms. Corcoran and others like her cannot bring suit in State court where they should rightfully receive redress for their losses. Instead, they are forced to sue in Federal court where they can only receive the cost of the medical benefit they were denied. In

short, Ms. Corcoran's unborn child died needlessly, and the only penalty to the HMO is the few hundred dollars it would have cost to properly hospitalize her.

As Newsweek observed, if ''there's no financial penalty when [employer-sponsored] health plans are negligent, what's to stop these profit-driven creatures from delivering inadequate medical care?''

The other victims of the current system are the doctors who end up in court and are left holding the bag for the actions of the employer-sponsored HMO's. To quote the Chicage Tribune, ''[HMOs], which care for more than 60 million people, are telling courts across the country that they cannot be held responsible for medical malpractice in cases involving patients who receive care through an employer-sponsored health plan* * *. HMOs are shifting virtually all of the risk of patient care to physicians, even though the HMO's can force doctors to change their clinical decisions.''

Again, let me demonstrate with a real life example:

Mr. Basile Pappas was suffering from numbness in his arms and was unable to walk, so he sought treatment at a local community hospital at 11 a.m. The emergency room doctor on staff made a difficult diagnosis and determined that Mr. Pappas had a cervical epidural abscess, a condition that was compressing his spinal cord. The emergency room doctor correctly concluded that unless Mr. Papas was treated immediately by a spinal cord trauma unit he could suffer severe paralysis.

At 12:30 p.m. the emergency room doctor made arrangements to transfer Mr. Pappas to a local university hospital, the only hospital in the area with such a trauma unit. Mr. Pappas' employer-sponsored HMO, however, would not allow Mr. Pappas to be transferred to the university hospital because it was not part of his service plan. Even after the emergency room doctor explained to the employer-sponsored HMO the urgency of the situation, the HMO refused. Indeed, the employer-sponsored HMO's physician who denied the treatment request refused to even speak to the emergency room doctor.

The emergency room doctor expeditiously made other arrangements to transfer Mr. Pappas to a hospital with the appropriate facilities that could admit Mr. Pappas. Nonetheless, Mr. Pappas was not treated until 3:30 p.m. and now suffers from permanent quadripliegia resulting from compression of his spine by the abscess. A court determined that the employer-sponsored HMO was immune from liability due to ERISA, but the hospital and Mr. Pappas' physicians were left paying for Mr. Pappas' injuries although they had little to no culpability.

Congress clearly never intended ERISA to remove all consumer protection nor for it to be used as a tool by employer-sponsored HMO's to shirk their responsibilities. My bill, therefore, amends section 514(b) of ERISA to clarify that State medical malpractice suits against an employer-sponsored HMO are not preempted by Federal law.

The Employee Health Insurance Accountability Act resolves the current problem by doing three things:

First, the measure holds employer-sponsored health insurance plans accountable for the consequences of their treatment rules and coverage determinations. This will increase patient protection, and create a powerful incentive for employer-sponsored HMO's to provide necessity care.

Second, the measure provides patients with legal redress when their employer-sponsored HMO's treatment rules and coverage determinations cause them harm. Victims like Ms. Corcoran will no longer be left without the opportunity to seek just reparations for their injuries. And

Finally, the measure reduces the likelihood that doctors will be sued for coverage determinations beyond their control. They will no longer face lawsuits simply because injured patients cannot properly hold their employer-sponsored HMO accountable.

Thank you Mr. President for the opportunity to introduce this important initiative. I hope my colleagues will join with me and support the Employee Health Insurance Accountability Act in order to ensure that employer-sponsored HMO's can no longer escape liability for their actions.

Mr. President, I ask unanimous consent that a copy of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Employee Health Insurance Accountability Act of 1997''.

**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress finds that—

(1) employer-sponsored health insurers' treatment rules and coverage determinations affect patients' receipts of health care by restricting the health services that are available to patients;

(2) physicians' behavior is affected by employer-sponsored health insurers' treatment and coverage determinations;

(3) medical malpractice is almost exclusively within the jurisdiction of the States;

(4) section 514(a) of the Employer Retirement Income Security Act of 1974 (29 U.S.C. 1144(a) (''ERISA'')) generally preempts State lawsuits against the entities that provide employee benefits and retirement plans while allowing lawsuits against physicians;

(5) there is a split among the United States Courts of Appeals on whether ERISA preempts medical malpractice suits against employer-sponsored health insurers;

(6) in the jurisdictions in which the Courts of Appeals have held that ERISA preempts medical malpractice suits against employer-sponsored health insurers, patients who may have been injured due to their employer-sponsored health insurers' treatment and coverage determinations have been left without a right of action under which to bring a lawsuit to seek just redress for their injuries; and

(7) it is, therefore, necessary to amend ERISA to clarify that State medical malpractice suits against an employer-sponsored health insurer are not preempted.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To restore accountability to employer-sponsored health insurers for the impact of their treatment rules and coverage determinations on patients' health.

(2) To increase patient protection from adverse effects on their health due to their employer-sponsored health insurers' treatment rules and coverage determinations.

(3) To provide patients with legal redress when their employer-sponsored health insurers' treatment rules and coverage determinations cause them harm.

(4) To provide more equitable assignment of liability among health care decision-makers so that plaintiffs are not forced to attempt to hold physicians liable for the treatment rules and coverage determinations of employer-sponsored health insurers.

**SEC. 3. ERISA PREEMPTION NOT TO APPLY TO CERTAIN ACTIONS INVOLVING HEALTH INSURANCE POLICYHOLDERS.**

(a) IN GENERAL.—Section 514(b) of the Employee Retirement Income Savings Act of 1974 (29 U.S.C. 1144(b)) is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following paragraph:

''(9) Subsection (a) shall not be construed to preempt any cause of action under State law to recover damages for medical malpractice, personal injury, or wrongful death against any entity that arises out of the provision by such entity of insurance or administrative services to or for an employee welfare benefit plan maintained to provide health care benefits.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to causes of action arising on or after the date of enactment of this Act.

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By Mr. DURBIN:

S. 1137. A bill to amend section 258 of the Communications Act of 1934 to establish additional protections against the unauthorized change of subscribers from one telecommunications carrier to another; to the Committee on Commerce, Science, and Transportation.

THE SLAMMING PROTECTION ACT

Mr. DURBIN. Mr. President, I rise today to introduce the Slamming Protection Act of 1997. This measure enables long-distance telephone consumers and the States to strike back against ''slamming,'' the practice of changing a telephone customer's long-distance carrier without the customer's knowledge or consent.

Slamming is the Federal Communications Commission's largest source of consumer complaints. In 1995, more than a third of the consumer complaints filed with the FCC's Common Carrier Bureau involved slamming. Last year 16,000 long-distance telephone consumers filed slamming complaints with the FCC. Since 1994, the number of slamming complaints has tripled. Yet, this is only the tip of the iceberg. Moreover, the Los Angeles Times reports that more than 1 million

American telephone consumers have been slammed in the last 2 years.

Slamming is not merely an inconvenience or a nuisance. It is an act of fraud that costs long-distance telephone consumers millions of dollars a year.

Let me give you an example. This January, Ms. Geryl Kramer, a small business owner in Chicago, was surprised to open her phone bill and find it noticeably more expensive than usual. After numerous phone calls she discovered that without her knowledge or consent, her long-distance carrier had been changed—she had been slammed. Her long-distance telephone service became a ping-pong ball bounced among various long-distance carriers for their profit and at her expense.

Ms. Kramer spent countless hours attempting to resolve the situation, going back and forth between four different long-distance carriers who were involved in the slamming which had quadrupled her small business' long-distance bills. Although she was slammed in November last year, she still has not been able to track down how she was slammed or who was responsible.

Ms. Kramer was understandably upset and frustrated. Beyond being exasperated by the audacity of the slammer, Ms. Kramer was left feeling powerless by her inability to hold the slammer accountable for its fraudulent actions. Having explored every other avenue, Ms. Kramer came to me seeking a solution to the problem of slamming. I believe the Slamming Protection Act is that solution.

The current protections against slamming are simply inadequate. Although long-distance telephone consumers can currently bring an action in Federal court or file a complaint with the FCC, these measures have been largely ineffective in reducing slamming. The economic damages suffered by consumers are often relatively insignificant—it would cost more to sue for recovery than the consumer would ever recover in court.

Moreover, if a long-distance telephone consumer files an FCC slamming complaint, the only redress is to be excused from paying the additional cost of the long-distance bill, if the bill is more expensive than it would have been under the original long-distance carrier. Thus, the consumer who is slammed must take the time and effort to file the complaint and participate in the investigation. Yet, when all is said and done, all the consumer can get after being defrauded is to be excused from paying the additional costs. Not surprisingly, slammers are undeterred by this system. And, it turns out, they have little to fear from broader FCC investigations.

The FCC does have administrative enforcement procedures against slamming. Although the FCC's efforts are a step in the right direction, they are too slow moving and seldom result in more than a slap on the wrist. Last year the FCC processed roughly 13,000 slamming complaints. This is only a fraction of the number of slamming incidents. And only rarely do the FCC's efforts result in changes in industry practice.

Since the FCC began investigating slamming in 1994, it has only moved against seven long-distance carriers and has only entered into consent decrees with eight long-distance carriers accused of slamming. Moreover, any fine or settlement agreement achieved by the FCC is paid to the U.S. Treasury, not the long-distance telephone consumer who was slammed—not to the party who was harmed.

Mr. President, we need tougher laws on the books. Long-distance telephone consumers should be able to stand up for themselves and fight back against slammers to let them know that their actions will not pay.

The Slamming Protection Act will help stamp out slamming by providing individual long-distance telephone consumers with the right and the power to strike back against individual slammers and by establishing penalties that will make slamming too risky and too expensive for the practice to remain profitable.

This measure will help end slamming in three ways:

First, it creates a right of action for long-distance telephone consumers to sue the slammer in State or Federal court. The Slamming Protection Act establishes minimum statutory damages of $2,000—or $6,000 if the slamming was done willfully and knowingly. These substantial penalties are designed to have a significant deterrent effect and to be large enough to encourage consumers to bring such actions;

Second, the Slamming Protection Act provides State attorneys general with the right to bring suit against slammers on behalf of the citizens of their States. Currently, in some jurisdictions the States are virtually helpless in their fight against interstate slammers. There is no existing Federal right of action to allow the States to hold slammers accountable. And a number of courts have held that similar State laws are preempted by Federal law. Some States, therefore, are left without recourse to prevent their citizens from being injured by slammers; and

Finally, the Slamming Protection Act creates criminal fines and jail time for repeat and willful slammers. Slamming takes choices away from consumers without their knowledge and distorts the long distance competitive market by rewarding companies that engage in misleading marketing practices. The Slamming Protection Act's criminal penalties will guarantee that slammers can no longer act with impunity.

Thank you Mr. President for the opportunity to introduce this important initiative. I hope my colleagues will join with me and support The Slamming Protection Act in order to help long-distance telephone consumers and the States to fight back against deceptive and fraudulent slammers.

Mr. President, I ask unanimous consent that a copy of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1137

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Slamming Protection Act''.

**SEC. 2. ADDITIONAL PROTECTIONS AGAINST UNAUTHORIZED CHANGES OF PROVIDERS OF TELEPHONE SERVICE.**

Section 258 of the Communications Act of 1984 (47 U.S.C. 258) is amended by adding at the end the following:

''(c) CRIMINAL PENALTIES.—

''(1) PERSONS.—Any person who executes a change in a provider of telephone exchange service or telephone toll service in willful violation of the procedures prescribed under subsection (a)—

''(A) shall be fined not more than $1,000, imprisoned not more than 30 days, or both, for the first offense; and

''(B) shall be fined not more than $10,000, imprisoned not more than 9 months, or both, for any subsequent offense.

''(2) TELECOMMUNICATIONS CARRIERS.—Any telecommunications carrier who executes a change in a provider of telephone exchange service or telephone toll service in willful violation of the procedures prescribed under subsection (a) shall be fined not more than $50,000 for the first offense and shall be fined not more than $100,000 for any subsequent offense.

''(d) PRIVATE RIGHT OF ACTION.—

''(1) IN GENERAL.—A subscriber whose provider of telephone exchange service or telephone toll service is changed in violation of the procedures prescribed under subsection (a) may, within one year after discovery of the change, bring in an appropriate court an action—

''(A) for an order to revoke the change;

''(B) for an award of damages in an amount equal to the greater of—

''(i) the actual monetary loss resulting from the change; or

''(ii) an amount not to exceed $2,000; or

''(C) for relief under both subparagraphs (A) and (B).

''(2) INCREASED AWARD.—If the court finds that the defendant executed the change in willful and knowing violation of the procedures prescribed under subsection (a), the court may, in its discretion, increase the amount of the award under paragraph (1) to an amount equal to not more than three times the maximum amount awardable under subparagraph (B) of that paragraph.

''(e) ACTIONS BY STATES.—

''(1) AUTHORITY OF STATES.—Whenever the attorney general of a State, or an official or agency designated by a State, has reason to believe that any person has engaged or is engaging in a pattern or practice of unauthorized changes in providers of telephone exchange service or telephone toll service of residents in such State in violation of the procedures prescribed under subsection (a), the State may bring a civil action on behalf of its residents to enjoin such practices, to recover damages equal to the actual monetary loss suffered by such residents, or both. If the court finds the defendant executed such changes in willful and knowing violation of such procedures, the court may, in its discretion, increase the amount of the award

to an amount equal to not more than three times the amount awardable under the preceding sentence.

''(2) EXCLUSIVE JURISDICTION OF FEDERAL COURTS.—The district courts of the United States shall have exclusive jurisdiction over all civil actions brought under this subsection. Upon proper application, such courts shall also have jurisdiction to award declaratory relief, or orders affording like relief, commanding the defendant to comply with the procedures prescribed under subsection (a). Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

''(3) NOTICE TO COMMISSION.—A State shall serve prior written notice of any civil action under this subsection upon the Commission with a copy of its complaint, except in any case where prior notice is not feasible, in which case the State shall serve such notice immediately after instituting such action.

''(4) RIGHTS OF COMMISSION.—Upon receiving notice of an action under this subsection, the Commission shall have the right—

''(A) to intervene in the action;

''(B) upon so intervening, to be heard on all such matters arising therein; and

''(C) to file petitions for appeal.

''(5) VENUE; SERVICE OF PROCESS.—Any civil action under this subsection may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the violation occurred or is occurring, and process in such cases may be served in any district in which the defendant is an inhabitant or where the defendant may be found.

''(6) EFFECT ON STATE COURT PROCEEDINGS.—Nothing contained in this subsection shall be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State.

''(f) CLASS ACTIONS.—For any class action brought with respect to the violation of the procedures prescribed under subsection (a), the total damages awarded may not exceed an amount equal to three times the total actual damages suffered by the members of the class, irrespective of the minimum damages provided for in subsection (d).

''(g) NO PREEMPTION OF STATE LAW.—Nothing in this section shall preempt the availability of relief under State law for unauthorized changes of providers of intrastate telephone exchange service or telephone toll service.''.

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By Mr. HELMS (for himself, Mr. BROWNBACK, Mr. BURNS, Mr. HAGEL, and Mr. ROBERTS):

S. 1138. A bill to reform the coastwise, intercoastal, and noncontiguous trade shipping laws, and for other purposes, to the Committee on Commerce, Science, and Transportation.

THE FREEDOM TO SHIP ACT OF 1997

Mr. HELMS. Mr. President, since 1920 there has been a Federal law on the books that, while perhaps well intentioned, nonetheless forbids a vast segment of the farming community in North Carolina and other States from obtaining reasonably-priced grain from the Midwest. It has long prevented Midwestern grain producers from delivering much needed grain to grain deficit states which experience difficulty in feeding their livestock.

That is why I am today introducing S. 1138 which I have titled ''The Freedom To Ship Act of 1997.'' I am pleased to have Senator BROWNBACK, Senator BURNS, Senator HAGEL, and Senator ROBERTS as original cosponsors.

Mr. President, the Jones Act, as it is commonly called, prevents a large sector of the Agricultural community in North Carolina from obtaining grain from the Midwest at reasonable prices. Furthermore, it is preventing grain suppliers in the Midwest from supplying grain deficit states, such as North Carolina, with grain needed for their livestock.

Under the present system, a few waterborne carriers have a monopoly on shipping, and my folks in North Carolina tell me that those shippers have no certified Jones Act ships to meet their demands.

My poultry and pork farmers tell me they can't get enough grain for their farms to feed their animals. My State cannot, and will never be able, to produce enough grain for the poultry and pork producers in North Carolina; so, as a result, they must, I repeat, they must have grain shipped in from the Midwest. They tell me the railroads can't guarantee enough rail cars to get the supplies of grain needed from the Midwest. And the costs of these shipments that are available are very high. The increase in transportation costs coupled with the price of grain leads to higher overhead for my farmers. This shortage of grains and shortage of trains means higher costs and higher prices which threatens the jobs of many farmers.

According to the 1996 North Carolina Department of Agriculture report, North Carolina was first in the nation in turkey production with 59.5 million heads; our State was number two in hog production, exceeded by Iowa, at 9.8 million heads; and in commercial broilers North Carolina was fourth with 681 million heads, exceeded by Arkansas, Georgia, and Alabama.

While we slightly dropped off in turkey production in 1996, we increased hog production by 1.5 million head and increased commercial broiler production by 37 million heads over the last statistical reporting period. That is a tremendous number of poultry and livestock to feed, and that's just the tip of the iceberg.

Dependence on one mode of transportation, the railroads, is not good. In times of severe weather, such as heavy snows in Winter and flooding from heavy rains, many times railroads can't get through mountain passes or flooded areas of the country. We've seen quite a few severe winters and floods in the past few years. Even a delay of one day can be critical to farmers.

Mr. President, the problem is that the Jones Act restricts shipping between ports in the United States. It requires that merchandise being transported by water between U.S. points be shipped on U.S.-built, U.S.-flagged, U.S.-manned, and U.S.-citizen owned vessels that are documented by the Coast Guard for such carriage. The problem is that there are not enough Jones Act certified vessels to transport grain to North Carolina farmers. As a matter of fact, my farmers are now faced with being forced to go to foreign sources of feed grain.

According to a report in the September 12, 1995, Journal of Commerce, Murphy Family Farms brought in a cargo of 1 million bushels of Canadian wheat to the port of Wilmington, North Carolina on Canada Steamship Lines.

Mr. President, the Jones Act is not fair to grain producers in the Midwest. It penalizes them for being American farmers.

Those that would protest this legislation would say that it would destroy American shipping. If we maintain the status quo, my farmers will have no choice but to buy foreign grain from countries like Canada and Argentina and it will be transported on non U.S. flagged vessels.

Mr. President, this legislation requires any non-U.S. flag shipping company that wishes to do regularly scheduled business in the coastwise trades to: set up a United States Corporation, use U.S. Labor, comply with all state and federal law and—for those of us who are worried about the budget deficit—pay state and Federal Taxes. More importantly, it would create more long shore jobs. The more ships you have in the trade the more you have to load and unload, hence you need more workers.

According to a report, issued in December of 1995, by the United States International Trade Commission, ''The economy wide effect of removing the Jones Act is a U.S. economic welfare gain of approximately $2.8 billion. This figure can also be interpreted as the annual reduction in real national income imposed by the Jones Act. A primary reason for the large gain in welfare is a decline of approximately 26 percent in the price of shipping services formerly restricted by the Jones Act.''

It is strange circumstance where we are the breadbasket of the world and there is a lid on the basket of the domestic market placed by the Jones Act.

Mr. President, the Jones Act placing restrictions on shipments of a whole host of other non-agricultural goods and commodities, such as coal, fuel oil, steel, kaolin clay, in the United States. Our legislation would help lower shipping costs for many other industries as well.

So I urge my colleagues to join us in correcting this inequity to allow American grain to be shipped unhindered to those grain deficit states that are in need of it; and all other non-agricultural commodities and goods to be shipped by water at reasonable costs where they are needed.

I urge my colleagues to support this legislation and ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1138

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Freedom to Ship Act of 1997''.

**SEC. 2. MISCELLANEOUS AMENDMENTS TO DEFINITIONS IN TITLE 46, UNITED STATES CODE.**

Section 2101 of title 46, United States Code, is amended—

(1) in each of paragraphs (1) through (45), by striking the period at the end and inserting a semicolon;

(2) in paragraph (46), by striking the period at the end and inserting ''; and'';

(3) by striking paragraph (3a) and inserting the following:

''(3a) 'citizen of the United States' means—

''(A)(i) a national of the United States, as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

''(ii) a corporation established under the laws of the United States or under the laws of a State, territory, district, or possession of the United States, that has—

''(I) a president or other chief executive officer and chairman of the board of directors of that corporation who are citizens of the United States; and

''(II) a board of directors, on which two-thirds of the number of directors necessary to constitute a quorum are citizens of the United States;

''(iii) a partnership existing under the laws of a State, territory, district, or possession of the United States that has at least two-thirds of the general partners who are citizens of the United States;

''(iv) a trust that has at least two-thirds of the trustees who are citizens of the United States; or

''(v) an association, joint venture, limited liability company or partnership, or other entity that has at least two-thirds of the members who are citizens of the United States; but

''(B) such term does not include—

''(i) with respect to a person or entity under clause (ii), (iii), or (v) of subparagraph (A), any parent corporation, partnership, or other person (other than an individual) or entity that is a second-tier owner (as that term is defined by the Secretary) of the person or entity involved; or

''(ii) with respect to a trust under clause (iv), any beneficiary of the trust.'';

(4) by inserting after paragraph (4) the following new paragraph:

''(4a) 'coastwise trade'—

''(A) subject to subparagraph (B), means the transportation by water of merchandise or passengers, the towing of a vessel by a towing vessel, or dredging operations embraced within the coastwise laws of the United States—

''(i) between points in the United States (including any district, territory, or possession of the United States);

''(ii) on the Great Lakes (including any tributary or connecting waters of the Great Lakes and the Saint Lawrence Seaway);

''(iii) on the subjacent waters of the Outer Continental Shelf subject to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.); and

''(iv) in the noncontiguous trade; and

''(B) does not include the activities specified in subparagraph (A) on the navigable waters included in the inland waterways trade except for activities specified in subparagraph (A) that occur on mixed waters.'';

(5) by inserting after paragraph (11c) the following new paragraph:

''(11d) 'foreign qualified vessel' means a vessel—

''(A) registered in a foreign country; and

''(B) the owner, operator, or charterer of which is a citizen of the United States or—

''(i) has qualified to engage in business in a State and has an agent in that State upon whom service of process may be made;

''(ii) is subject to the laws of the United States in the same manner as any foreign person doing business in the United States; and

''(iii) either—

''(I) employs vessels in the coastwise trade regularly or from time to time as part of a regularly scheduled freight service in the foreign ocean (including the Great Lakes) trades of the United States; or

''(II) offers passage or cruises on passenger vessels the owner, operator, or charterer employs in the coastwise trade or in the coastwise trade as part of those cruises offered in the foreign ocean (including the Great Lakes) trades of the United States.'';

(6) by redesignating paragraph (14a) as paragraph (14b);

(7) by inserting after paragraph (14) the following new paragraph:

''(14a) 'inland waterways trade'—

''(A) means—

''(i) the transportation of merchandise or passengers on the navigable rivers, canals, lakes other than the Great Lakes, or other waterways inside the Boundary Line;

''(ii) the towing of barges by towing vessels in the waters specified in clause (i); or

''(iii) engaging in dredging operations in the waters specified in clause (i); and

''(B) includes any activity specified in subparagraph (A) that is conducted in mixed waters.'';

(8) by redesignating paragraph (15a) as paragraph (15b);

(9) by inserting after paragraph (15) the following:

''(15a) 'mixed waters' means—

''(A) the harbors and ports on the coasts and Great Lakes of the United States; and

''(B) the rivers, canals, and other waterways tributary to the Great Lakes or to the coastal harbors and coasts of the United States inside the Boundary Line,

that the Secretary of Transportation determines to be navigable by oceangoing vessels.'';

(10) by redesignating paragraph (17a) as paragraph (17b);

(11) by inserting after paragraph (17) the following:

''(17a) 'noncontiguous trade' means transportation by water of merchandise or passengers, or towing by towing vessels—

''(A) between—

''(i) a point in the 48 continental States and the District of Columbia; and

''(ii) a point in Hawaii, Alaska, Puerto Rico, Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, or any other noncontiguous territory or possession of the United States, as embraced within the coastwise laws of the United States; or

''(B) between 2 points described in subparagraph (A)(ii).'';

(12) in paragraph (21)(A)—

(A) in clause (ii), by striking ''or'' after the semicolon;

(B) in clause (iii), by inserting ''or'' after the semicolon; and

(C) by adding at the end the following new clause:

''(iv) an individual who—

''(I) is a member of the family or a guest of the owner or charterer; and

''(II) is not a passenger for hire;'';

(13) by striking paragraph (40) and inserting the following:

''(40) 'towing vessel' means any commercial vessel engaged in, or that a person intends to use to engage in, the service of—

''(A) towing, pulling, pushing, or hauling alongside (or any combination thereof); or

''(B) assisting in towing, pulling, pushing, or hauling alongside;''; and

(14) by inserting after paragraph (40) the following new paragraphs:

''(40a) 'towing of a vessel by a towing vessel between points' means attaching a towing vessel to a towed vessel (including any barge) at 1 point and releasing the towed vessel from the towing vessel at another point, regardless of the origin or ultimate destination of either the towed vessel or the towing vessel; and

''(40b) 'transportation of merchandise or passengers by water between points' means, without regard to the origin or ultimate destination of the merchandise or passengers involved—

''(A) in the case of merchandise, loading merchandise at 1 point and permanently unloading the merchandise at another point; or

''(B) in the case of passengers, embarking passengers at 1 point and permanently disembarking the passengers at another point.''.

**SEC. 3. DOCUMENTATION.**

(a) DEFINITIONS.—Section 12101(b)(2) of title 46, United States Code, is amended—

(1) by striking paragraph (2) and inserting the following:

''(2) 'license', 'enrollment and license', 'license for the coastwise (or coasting) trade', 'enrollment and license for the coastwise (or coasting) trade', and 'enrollment and license to engage in the foreign and coastwise (or coasting) trade on the northern, northeastern, and northwestern frontiers, otherwise than by sea' mean a coastwise endorsement provided in section 12106.'';

(2) by striking paragraph (3); and

(3) by redesignating paragraph (4) as paragraph (3).

(b) VESSELS ELIGIBLE FOR DOCUMENTATION.—Section 12102(a) of title 46, United States Code, is amended—

(1) by striking all that precedes paragraph (5) and inserting the following:

''(a) A vessel of at least 5 net tons that is not registered under the laws of a foreign country or that is not titled in a State is eligible for documentation if—

''(1)(A) the vessel is owned by an individual who is a citizen of the United States, or a corporation, association, trust, joint venture, partnership, limited liability company, or other entity that is a citizen of the United States; and

''(B) the owner of the vessel is capable of holding title to a vessel under the laws of the United States or under the laws of a State;''; and

(2) by redesignating paragraphs (5) and (6) as paragraphs (2) and (3), respectively.

(c) COASTWISE ENDORSEMENTS.—Section 12106 of title 46, United States Code, is amended to read as follows:

**''§ 12106. Coastwise endorsements and certificates**

''(a) IN GENERAL.—A certificate of documentation may be endorsed with a coastwise endorsement for a vessel that is eligible for documentation.

''(b) ELIGIBILITY.—

''(1) IN GENERAL.—Any of the following vessels may be issued a certificate to engage in the coastwise trade if the Secretary of Transportation makes a finding, pursuant to information obtained and furnished by the Secretary of State, that the government of the nation of registry of such vessel extends reciprocal privileges to vessels of the United States to engage in the transportation of merchandise or passengers (or both) in its coastwise trade:

''(A) A foreign qualified vessel (as defined in section 2101(11d)).

''(B) A vessel of foreign registry—

''(i) if the vessel is subject to a demise or bareboat charter, for the duration of that charter, to a person or entity that would be eligible to document that vessel if that person or entity were the owner of the vessel; or

''(ii) that engages irregularly in the coastwise trade of the United States.

''(2) VESSEL ENGAGING IRREGULARLY IN THE COASTWISE TRADE.—For purposes of this subsection, a vessel engages irregularly in the coastwise trade of the United States if that vessel—

''(A) during any 60-day period does not make, in the aggregate, more than 4 calls to United States ports; and

''(B) during any calendar year does not make, in the aggregate, more than 6 calls to United States ports.

''(c) EMPLOYMENT IN THE COASTWISE TRADE.—Subject to the applicable laws of the United States regulating the coastwise trade and trade with Canada, only a vessel with a certificate of documentation endorsed with a coastwise endorsement or with a certificate issued under subsection (b) may be employed in the coastwise trade.''.

(d) INLAND WATERWAYS ENDORSEMENTS.—Section 12107 of title 46, United States Code, is amended to read as follows:

**''§ 12107. Inland waterways endorsements**

''A certificate of documentation may be endorsed with an inland waterways endorsement for a vessel that—

''(1) is eligible for documentation; and

''(2)(A) was built in the United States; or

''(B) was not built in the United States; but was—

''(i) captured in war by citizens of the United States and lawfully condemned as prize;

''(ii) adjudged to be forfeited for a breach of the laws of the United States; or

''(iii) is qualified for documentation under section 4136 of the Revised Statutes (46 App. U.S.C. 14).''.

(e) LIMITATIONS ON OPERATIONS AUTHORIZED BY CERTIFICATES.—Section 12110(b) of title 46, United States Code, is amended—

(1) by striking ''coastwise trade'' and inserting ''coastwise trade or inland waterways trade''; and

(2) by striking ''that trade'' and inserting ''those trades''.

**SEC. 4. TRANSPORTATION OF MERCHANDISE IN THE COASTWISE AND INLAND WATERWAYS TRADES.**

(a) IN GENERAL.—Section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883) is amended to read as follows:

**''SEC. 27. PROHIBITION.**

''No merchandise, including merchandise owned by the United States Government, a State (as defined in section 2101 of title 46, United States Code), or a political subdivision of a State, and including material without value, shall be transported by water, on penalty of forfeiture of the merchandise (or a monetary amount not to exceed the value of the merchandise, as determined by the Secretary of the Treasury, or the actual cost of the transportation, whichever is greater, to be recovered from any cosigner, seller, owner, importer, consignee, agent, or other person that transports or causes the merchandise to be transported by water)—

''(1) in the coastwise trade, in any vessel other than—

''(A) a vessel documented with a coastwise endorsement under section 12106(a) of title 46, United States Code; or

''(B) a vessel that has been issued coastwise certification under section 12106(b) of title 46, United States Code, that is in effect for engaging in the transportation of merchandise; or

''(2) in the inland waterways trade in any vessel other than a vessel documented with an inland waterways endorsement under section 12107 of title 46, United States Code.''.

(b) REPEAL.—Section 27A of the Merchant Marine Act, 1920 (46 App. U.S.C. 883–1) is repealed.

**SEC. 5. TRANSPORTATION OF PASSENGERS.**

(a) IN GENERAL.—Section 8 of the Act of June 19, 1886 (24 Stat. 81, chapter 421; 46 U.S.C. App. 289) is amended to read as follows:

**''SEC. 8. PROHIBITION.**

''No passengers shall be transported by water, on penalty of $200 for each passenger so transported or the actual cost of the transportation, whichever is greater, to be recovered from the vessel so transporting the passenger—

''(1) in the coastwise trade, in any vessel other than—

''(A) a vessel documented with a coastwise endorsement under section 12106 of title 46, United States Code; or

''(B) a vessel that has been issued a coastwise certification under section 12106(b) of title 46, United States Code, that is in effect for engaging in the transportation of merchandise; and

''(2) in the inland waterways trade, in any vessel other than a vessel documented with an inland waterways endorsement under section 12107 of title 46, United States Code.''.

(b) REPEALS.—The following provisions are repealed:

(1) The Act of April 26, 1938 (52 Stat. 223, chapter 174; 46 U.S.C. App. 289a).

(2) Section 12(22) of the Maritime Act of 1981 (46 U.S.C. App. 289b).

(3) Public Law 98–563 (46 U.S.C. App. 289c).

**SEC. 6. TOWING AND SALVAGING OPERATIONS.**

Section 4370(a) of the Revised Statutes (46 U.S.C. App. 316(a)) is amended to read as follows:

''(a)(1) No vessel (including any barge), other than a vessel in distress, may be towed—

''(A) in the coastwise trade by any vessel other than—

''(i) a vessel documented with a coastwise endorsement under section 12106(a) of title 46, United States Code; or

''(ii) a vessel registered in a foreign country, if the Secretary of the Treasury finds, pursuant to information furnished by the Secretary of State, that the government of that foreign country and the government of the country of which each ultimate owner of the towing vessel is a citizen extend reciprocal privileges to vessels of the United States to tow vessels (including barges) in the coastal waters of that country; or

''(B) in the inland waterways trade by any vessel other than a vessel documented with an inland waterways endorsement under section 12107 of title 46, United States Code.

''(2)(A) The owner and master of any vessel that tows another vessel (including a barge) in violation of this section shall each be liable to the United States Government for a civil penalty in an amount not less than $250 and not greater than $1,000. The penalty shall be enforceable through the district court of the United States for any district in which the offending vessel is found.

''(B) A penalty specified in subparagraph (A) shall constitute a lien upon the offending vessel, and that vessel shall not be granted clearance until that penalty is paid.

''(C) In addition to the penalty specified in subparagraph (A), the offending vessel shall be liable to the United States Government for a civil penalty in an amount equal to $50 per ton of the measurement of the vessel towed in violation of this section, which shall be recoverable in a libel or other enforcement action conducted through the district court for the United States for the district in which the offending vessel is found.''.

**SEC. 7. CITIZENSHIP AND TRANSFER PROVISIONS.**

(a) CITIZENSHIP OF CORPORATIONS, PARTNERSHIPS, AND ASSOCIATIONS.—Section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802) is amended—

(1) in subsection (a)—

(A) by inserting a period after ''possession thereof''; and

(B) by striking all that follows the period inserted in subparagraph (A) through the end of the subsection; and

(2) by striking subsection (c).

(b) APPROVAL OF TRANSFER OF REGISTRY OR OPERATION UNDER AUTHORITY OF A FOREIGN COUNTRY OR FOR SCRAPPING IN A FOREIGN COUNTRY; PENALTIES.—Section 9 of the Shipping Act, 1916 (46 U.S.C. App. 808) is amended—

(1) by striking subsection (c) and inserting the following:

''(c) Except as provided in section 611 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1181) and section 31322(a)(1)(D) of title 46, United States Code, a person may not, without the approval of the Secretary of Transportation—

''(1) place under foreign registry—

''(A) a documented vessel; or

''(B) a vessel with respect to which the last documentation was made under the laws of the United States;

''(2) operate a vessel referred to in paragraph (1) under the authority of a foreign government; or

''(3) scrap or transfer for scrapping a vessel referred to in paragraph (1) in a foreign country.''; and

(2) by striking subsection (d) and inserting the following:

''(d)(1) A person that places a documented vessel under foreign registry, operates that vessel under the authority of a foreign country, or scraps or transfers for scrapping that vessel in a foreign country—

''(A) in violation of this section and knowing that that placement, operation, scrapping, or transfer for scrapping is a violation of this section shall, upon conviction, be fined under title 18, United States Code, imprisoned for not more than 5 years, or both; or

''(B) otherwise in violation of this section shall be liable to the United States Government for a civil penalty of not more than $10,000 for each violation.

''(2) A documented vessel may be seized by, and forfeited to, the United States Government if that vessel is placed under foreign registry, operated under the authority of a foreign country, or scrapped or transferred for scrapping in a foreign country in violation of this section.''.

**SEC. 8. LABOR PROVISIONS.**

(a) LIABILITY FOR INJURY OR DEATH OF MASTER OR CREW MEMBER.—Section 20(a) of the Act of March 4, 1915 (38 Stat. 1185, chapter 153; 46 U.S.C. App. 688(a)), is amended—

(1) by inserting ''(1)'' after ''(a)'';

(2) by adding at the end of paragraph (1) (as designated under paragraph (1) of this subsection) the following new sentence: ''In an action brought under this subsection against a defendant employer that does not reside or maintain an office in the United States (including any territory or possession of the United States) and that engages in any enterprise that makes use of 1 or more ports in the United States (as defined in section 2101 of title 46, United States Code), jurisdiction shall be under the district court most proximate to the place of the occurrence of the personal injury or death that is the subject of the action.''; and

(3) by adding at the end the following new paragraph:

''(2)(A) The employer of a master or member of the crew of a vessel—

''(i) may, at the election of the employer, participate in an authorized compensation plan under the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 901 et seq.); and

''(ii) if the employer makes an election under clause (i), notwithstanding section 2(3)(G) of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 902(3)(G)), shall be subject to that Act.

''(B) If an employer makes an election, in accordance with subparagraph (A), to participate in an authorized compensation plan under the Longshore and Harbor Workers' Compensation Act—

''(i) a master or crew member employed by that employer shall be considered to be an employee for the purposes of that Act; and

''(ii) the liability of that employer under that Act to the master or crew member, or to any person otherwise entitled to recover damages from the employer based on the injury, disability, or death of the master or crew member, shall be exclusive and in lieu of all other liability.''.

(b) MINIMUM REQUIREMENTS.—All vessels, whether documented in the United States or not, operating in the coastwise trade of the United States shall be subject to minimum international labor standards for seafarers under international agreements in force for the United States, as determined by the Secretary of Transportation on the advice of the Secretaries of Labor and Defense.

**SEC. 9. REGULATIONS REGARDING VESSELS.**

(a) APPLICABLE MINIMUM REQUIREMENTS.—Except as provided in paragraph (2), the minimum requirements for vessels engaging in the transportation of cargo or merchandise in the United States coastwise trade shall be the recognized international standards in force for the United States (as determined by the Secretary of the department in which the Coast Guard is operating, in consultation with any other official of the Federal Government that the Secretary determines to be appropriate).

(b) CONSISTENCY IN APPLICATION OF STANDARDS.—In any case in which any minimum requirement for vessels referred to in paragraph (1) is inconsistent with a minimum that is applicable to vessels that are documented in a foreign country and that are admitted to engage in the transportation of cargo and merchandise in the United States coastwise trade, the standard applicable to United States documented vessels shall be deemed to be the standard applicable to vessels that are documented in a foreign country.

(c) MINIMUM REQUIREMENTS FOR VESSELS.—As used in this subsection, the term ''minimum requirements for vessels'' means, with respect to vessels (including United States documented vessels and foreign documented vessels), all safety, manning, inspection, construction, and equipment requirements applicable to those vessels in United States coastwise passenger trade, to the extent that those requirements are consistent with applicable international law and treaties to which the United States is a signatory.

**SEC. 10. ENVIRONMENT.**

All vessels, whether documented under the laws of the United States or not, regularly engaging in the United States coastwise trade shall comply with all applicable State and Federal environmental statutes.

**SEC. 11. GENERAL REQUIREMENTS.**

Each person or entity that is not a citizen of the United States, as defined in section 2101(3a) of title 46, United States Code, that owns or operates vessels that regularly engage in the United States domestic coastwise trade shall—

(1) establish a corporation or other corporate entity and qualify under the laws of that State where the corporation or corporate entity is established to do business in the United States;

(2) name an officer of the corporation or corporate entity upon whom process may be served;

(3) abide by all applicable laws of the United States and the State where the corporation or corporate entity is established; and

(4) post evidence of—

(A) financial responsibility in amounts as considered necessary by the Secretary of Transportation for the business activities of the corporation or corporate entity; and

(B) compliance with all applicable United States laws.

## ADDITIONAL COSPONSORS

S. 9

At the request of Mr. NICKLES, the name of the Senator from Kansas [Mr. BROWNBACK] was added as a cosponsor of S. 9, a bill to protect individuals from having their money involuntarily collected and used for politics by a corporation or labor organization.

S. 100

At the request of Mr. KERRY, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 100, a bill to amend title 49, United States Code, to provide protection for airline employees who provide certain air safety information, and for other purposes.

S. 358

At the request of Mr. DEWINE, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from Rhode Island [Mr. CHAFEE], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of S. 358, a bill to provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products, and for other purposes.

S. 412

At the request of Mr. LAUTENBERG, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of S. 412, a bill to provide for a national standard to prohibit the operation of motor vehicles by intoxicated individuals.

S. 428

At the request of Mr. KOHL, the names of the Senator from California [Mrs. FEINSTEIN] and the Senator from Iowa [Mr. HARKIN] were added as cosponsors of S. 428, a bill to amend chapter 44 of title 18, United States Code, to improve the safety of handguns.

S. 474

At the request of Mr. KYL, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 474, a bill to amend sections 1081 and 1084 of title 18, United States Code.

S. 507

At the request of Mr. HATCH, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 507, a bill to establish the United States Patent and Trademark Organization as a Government corporation, to amend the provisions of title 35, United States Code, relating to procedures for patent applications, commercial use of patents, reexamination reform, and for other purposes.

S. 617

At the request of Mr. JOHNSON, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 617, a bill to amend the Federal Meat Inspection Act to require that imported meat, and meat food products containing imported meat, bear a label identifying the country of origin.

S. 625

At the request of Mr. MCCONNELL, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 625, a bill to provide for competition between forms of motor vehicle insurance, to permit an owner of a motor vehicle to choose the most appropriate form of insurance for that person, to guarantee affordable premiums, to provide for more adequate and timely compensation for accident victims, and for other purposes.

S. 852

At the request of Mr. LOTT, the name of the Senator from Tennessee [Mr. FRIST] was added as a cosponsor of S. 852, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles.

S. 892

At the request of Mr. GRAHAM, the name of the Senator from Maine [Ms. COLLINS] was added as a cosponsor of S. 892, a bill to amend title VII of the Public Health Service Act to revise and extend the area health education center program.

S. 1042

At the request of Mr. CRAIG, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 1042, a bill to require country of origin labeling of perishable agricultural commodities imported into the United States and to establish penalties for violations of the labeling requirements.

S. 1045

At the request of Mr. DASCHLE, the name of the Senator from Louisiana [Ms. LANDRIEU] was added as a cosponsor of S. 1045, a bill to prohibit discrimination in employment on the basis of genetic information, and for other purposes.

S. 1056

At the request of Mr. BURNS, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of S. 1056, a bill to provide for farm-related exemptions from certain hazardous materials transporation requirements.

S. 1062

At the request of Mr. D'AMATO, the names of the Senator from New York [Mr. MOYNIHAN], the Senator from Wisconsin [Mr. KOHL], the Senator from Maryland [Ms. MIKULSKI], the Senator from Rhode Island [Mr. REED], the Senator from Delaware [Mr. BIDEN], the

Senator from California [Mrs. FEINSTEIN], the Senator from Indiana [Mr. LUGAR], the Senator from Iowa [Mr. GRASSLEY], the Senator from South Dakota [Mr. JOHNSON], the Senator from Michigan [Mr. LEVIN], the Senator from Connecticut [Mr. DODD], the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from Kansas [Mr. BROWNBACK] were added as cosponsors of S. 1062, a bill to authorize the President to award a gold medal on behalf of the Congress to Ecumenical Patriarch Bartholomew in recognition of his outstanding and enduring contributions toward religious understanding and peace, and for other purposes.

S. 1067

At the request of Mr. KERRY, the name of the Senator from South Dakota [Mr. JOHNSON] was added as a cosponsor of S. 1067, a bill to prohibit United States military assistance and arms transfers to foreign governments that are undemocratic, do not adequately protect human rights, are engaged in acts of armed aggression, or are not fully participating in the United Nations Register of Conventional Arms.

S. 1073

At the request of Mr. TORRICELLI, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 1073, a bill to withhold United States assistance for programs for projects of the International Atomic Energy Agency in Cuba, and for other purposes.

S. 1084

At the request of Mr. INHOFE, the names of the Senator from Kentucky [Mr. FORD] and the Senator from Idaho [Mr. KEMPTHORNE] were added as cosponsors of S. 1084, a bill to establish a research and monitoring program for the national ambient air quality standards for ozone and particulate matter and to reinstate the original standards under the Clean Air Act, and for other purposes.

S. 1089

At the request of Mr. SPECTER, the name of the Senator from Oregon [Mr. WYDEN] was added as a cosponsor of S. 1089, a bill to terminate the effectiveness of certain amendments to the foreign repair station rules of the Federal Aviation Administration, and for other purposes.

S. 1093

At the request of Mr. KERRY, the name of the Senator from Wyoming [Mr. THOMAS] was added as a cosponsor of S. 1093, a bill to extend nondiscriminatory treatment (most-favored-nation treatment) to the products of the Lao People's Democratic Republic, and for other purposes.

SENATE CONCURRENT RESOLUTION 38

At the request of Mr. ROTH, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of Senate Concurrent Resolution 38, a concurrent resolution to state the sense of the Congress regarding the obligations of the People's Republic of China under the Joint Declaration and the Basic Law to ensure that Hong Kong remains autonomous, the human rights of the people of Hong Kong remain protected, and the government of the Hong Kong SAR is elected democratically.

SENATE CONCURRENT RESOLUTION 42

At the request of Mr. D'AMATO, the names of the Senator from New York [Mr. MOYNIHAN], the Senator from Rhode Island [Mr. REED], the Senator from Wisconsin [Mr. KOHL], the Senator from California [Mrs. FEINSTEIN], the Senator from Maryland [Ms. MIKULSKI], the Senator from South Dakota [Mr. JOHNSON], the Senator from Michigan [Mr. LEVIN], the Senator from Iowa [Mr. GRASSLEY], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of Senate Concurrent Resolution 42, a concurrent resolution to authorize the use of the rotunda of the Capitol for a congressional ceremony honoring Ecumenical Patriarch Bartholomew.

SENATE RESOLUTION 94

At the request of Mr. WARNER, the names of the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Idaho [Mr. CRAIG], the Senator from Nebraska [Mr. HAGEL], the Senator from North Carolina [Mr. HELMS], the Senator from Idaho [Mr. KEMPTHORNE], the Senator from Alabama [Mr. SESSIONS], the Senator from Pennsylvania [Mr. SANTORUM], and the Senator from Texas [Mr. GRAMM] were added as cosponsors of Senate Resolution 94, a resolution commending the American Medical Association on its 150th anniversary, its 150 years of caring for the United States, and its continuing effort to uphold the principles upon which Nathan Davis, M.D., and his colleagues founded the American Medical Association to ''promote the science and art of medicine and the betterment of public health''.

SENATE RESOLUTION 102

At the request of Mr. SPECTER, the names of the Senator from Iowa [Mr. GRASSLEY], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Missouri [Mr. BOND], and the Senator from Oregon [Mr. SMITH] were added as cosponsors of Senate Resolution 102, a resolution designating August 15, 1997, as ''Indian Independence Day: A National Day of Celebration of Indian and American Democracy.''

SENATE RESOLUTION 110

At the request of Mr. WYDEN, the names of the Senator from West Virginia [Mr. BYRD], the Senator from Nevada [Mr. REID], the Senator from Massachusetts [Mr. KERRY], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Hawaii [Mr. AKAKA], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Washington [Mrs. MURRAY], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Wisconsin [Mr. FEINGOLD], the Senator from Utah [Mr. HATCH], the Senator from Illinois [Mr. DURBIN], and the Senator from Iowa [Mr. HARKIN] were added as cosponsors of Senate Resolution 110, a bill to permit an individual with a disability with access to the Senate floor to bring necessary supporting aids and services.

## SENATE CONCURRENT RESOLUTION 47—RELATIVE TO EXPO 2000

Mr. LUGAR (for himself and Mr. ROCKEFELLER) submitted the following concurrent resolution, which was referred to the Committee on Foreign Relations:

S. CON. RES. 47

Whereas Germany has invited nations, international and nongovernmental organizations, and individuals from around the world to participate in EXPO 2000, a global town hall meeting to be hosted in the year 2000, in Hannover, Germany, for the purpose of providing a forum for worldwide dialogue on the challenges, goals, and solutions for the sustainable development of mankind in the 21st century;

Whereas the theme of EXPO 2000 is ''Humankind-Nature-Technology'';

Whereas EXPO 2000 will take place in the heart of the newly unified, free, and democratic Europe;

Whereas Germany has established a stable democracy and a pluralistic society in the heart of Europe;

Whereas more than 40,000,000 people in the United States can trace their ancestry to Germany, and in 1983 the United States and Germany celebrated the Tri-Centennial of immigration of Germans into the United States;

Whereas Germany has been a close political and military ally of the United States for nearly five decades and has been a driving force with respect to the political, monetary, and economic integration of Europe;

Whereas the United States, as a leading political, intellectual, and economic power, maintains a strong interest in the worldwide strengthening of political freedom and human rights, open market economies, and technological advancement throughout the world; and

Whereas the United States is eager to share with the global community the vast and promising public and private efforts being made to prepare for the next century: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That it is the sense of Congress that the United States Government—

(1) should fully participate in EXPO 2000, a global town hall meeting to be hosted in the year 2000, in Hannover, Germany, for the purpose of providing a forum for worldwide dialogue on the challenges, goals, and solutions for the sustainable development of mankind in the 21st century; and

(2) should encourage the academic community and the private sector in the United States to support this worthwhile undertaking.

Mr. LUGAR. Mr. President, I rise today to submit a concurrent resolution on behalf of myself and Senator ROCKEFELLER.

This concurrent resolution expresses the sense of the Congress that the United States Government should fully participate in EXPO 2000 in the year 2000, in Hannover, Germany. It further states that the United States should encourage the academic community and the private sector in the United

States to support this worthwhile undertaking.

The theme of EXPO 2000 is ''Humankind-Nature-Technology''. It's purpose is to provide a forum for a worldwide dialog on the challenges, goals, and solutions for the sustainable development of mankind in the 21st century.

The United States must maintain its status as a leading political, intellectual and economic power. We must continue our strong interest in strengthening political freedom and human rights movements, encouraging open market economies, and stimulating technological advancement around the world.

Participation in EXPO 2000 will allow the United States to preserve its leadership role and to continue providing the example the rest of the world attempts to imitate.

Mr. President, I understand that a similar concurrent resolution will be introduced in the House of Representatives by Congressmen OXLEY, HAMILTON, BEREUTER, and PICKETT.

It is my hope that the United States will play a role at EXPO 2000 in Hannover, Germany, commensurate with its position in the world.

I would hope the Senate would consider this concurrent resolution at the earliest possible date.

## SENATE CONCURRENT RESOLUTION 48—EXPRESSING THE SENSE OF CONGRESS REGARDING THE PROLIFERATION OF MISSILE TECHNOLOGY FROM RUSSIA TO IRAN

Mr. KYL (for himself, Mrs. FEINSTEIN, Mr. SHELBY, Mr. ALLARD, Mr. ASHCROFT, Mr. BROWNBACK, Mr. BURNS, Mr. D'AMATO, Mr. INHOFE, Mr. JOHNSON, Ms. MIKULSKI, and Mr. SPECTER) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations.

S. CON. RES. 48

Whereas there is substantial evidence missile technology and technical advice have been provided from Russia to Iran, in violation of the Missile Technology Control Regime;

Whereas these violations include providing assistance to Iran in developing ballistic missiles, including the transfer of wind tunnel and rocket engine testing equipment;

Whereas these technologies give Iran the capability to deploy a missile of sufficient range to threaten United States military installations in the Middle East and Persian Gulf, as well as the territory of Israel, and our North Atlantic Treaty Organization ally Turkey; and

Whereas President Clinton has raised with Russian President Boris Yeltsin United States concerns about these activities and the Russian response has to date been inadequate: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That it is the sense of the Congress that—

(1) the President should demand that the Government of Russia take concrete actions to stop governmental and nongovernmental entities in the Russian Federation from providing missile technology and technical advice to Iran, in violation of the Missile Technology Control Regime;

(2) if the Russian response is inadequate, the United States should impose sanctions on the responsible Russian entities in accordance with Executive Order 12938 on the Proliferation of Weapons of Mass Destruction, and reassess cooperative activities with Russia;

(3) the threshold under current law allowing for the waiver of the prohibition on the release of foreign assistance to Russia should be raised; and

(4) our European allies should be encouraged to take steps in accordance with their own laws to stop such proliferation.

Mr. KYL. Mr. President, I rise today to submit a Concurrent Resolution which expresses the sense of the Congress that Russia should refrain from providing additional missile assistance to Iran, and calls for the imposition of sanctions should Russia fail to stop.

A broad, bipartisan consensus exists among leaders in the Congress and the administration that the proliferation of weapons of mass destruction [WMD] and ballistic missiles used to deliver them is one of the key national security challenges facing the United States today. In fact, in 1994, President Clinton issued Executive Order 12938 declaring that the proliferation of weapons of mass destruction and the means of delivering them constitutes ''an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States,'' and that he had therefore decided to ''declare a national emergency to deal with that threat.'' The President reaffirmed this Executive Order in 1995 and 1996.

The Concurrent Resolution that I have submitted today has bipartisan, bicameral support. Over the past few weeks I have enjoyed working with Representative JANE HARMAN, the principal sponsor of the resolution in the House of Representatives, and I am pleased to announce that Senators FEINSTEIN, D'AMATO, INHOFE, ALLARD, and BURNS are original cosponsors of the legislation.

This resolution is important because Iran's ballistic missile program—in concert with its nuclear, biological, and chemical weapons programs—poses a grave threat to the United States and our allies in the region.

Iran is a state-sponsor of terrorism led by a regime which is hostile to the United States.

Its chemical and biological weapons programs, which began in the early 1980's, are now capable of producing a wide variety of highly lethal chemical and biological agents, and Tehran has an aggressive program to develop nuclear weapons.

In addition, Iran currently possesses Scud-B and Scud-C ballistic missiles, and with Russian assistance, is working to develop longer-range missiles.

Russia has stated that it recognizes the danger posed by Iran's missile program. At the Helsinki summit in March 1997, President Yeltsin reaffirmed that it was not Moscow's policy to assist Iran's missile program, since such missiles could be used to threaten Russia in the future. In addition, Russia is a member of the Missile Technology Control Regime [MTCR], which regulates the sale of missile technology to non-member nations, and has signed a bilateral agreement with the United States pledging not to conclude additional arms contracts with Iran.

Despite Russia's assurances and bilateral and international commitments, recent press articles indicate Russian entities have engaged in missile cooperation with Iran. On February 12, 1997, the Los Angeles Times reported that Russia had recently transferred SS–4 missile technology to Iran. The transfer reportedly involved detailed instructions on how to build the missile and some unspecified components. This transfer is of particular concern since the SS–4 has a range of 2,000 km—more than three times greater than any missile currently in Iran's arsenal.

In addition to the transfer of SS–4 technology, Russia appears to be selling Iran a wide variety of other equipment and material useful in the design and manufacture of ballistic missiles. According to a Washington Times article published on May 22, 1997, Russian entities signed numerous missile-related contracts with Iran's Defense Industries Organization in 1996. The contracts reportedly included deals worth over $100,000 for projects such as the construction of a wind tunnel for missile design, manufacture of missile models, and the sale of missile design software. Construction of the wind tunnel alone is expected to cost several million dollars.

These press reports are corroborated by an unclassified report to Congress, prepared by the CIA and coordinated throughout the Intelligence Community, that was released in June. The report titled, ''The Acquisition of Technology Relating to Weapons of Mass Destruction and Advanced Conventional Munitions,'' states that, ''Russia supplied a variety of ballistic missile-related goods to foreign countries [in 1996], especially Iran.'' The report also noted that Russia and China continued to be the primary suppliers of missile technology and were ''key to any future efforts to stem the flow of dual-use goods and modern weapons to countries of concern.''

This Concurrent Resolution expresses the sense of the Congress that the President should demand that the Russian government take concrete actions to stop governmental and nongovernmental entities from providing missile assistance to Iran. If Russia fails to respond to United States concerns, the Resolution calls on the President to impose sanctions on the responsible Russian entities in accordance with existing United States law. This resolution is a reasonable response to an important problem.

I am pleased that Russian President Yeltsin has clearly stated that it is not Russia's policy to assist Iran's missile

program. But unfortunately, there continue to be discrepancies between Russian words and deeds. The time has come for Russia's leaders to halt this dangerous missile cooperation with a dangerous regime in Tehran. I urge my colleagues to support this resolution.

## SENATE CONCURRENT RESOLUTION 49—AUTHORIZING USE OF THE CAPITOL GROUNDS

Mr. LEVIN (for himself and Mr. JEFFORDS) submitted the following concurrent resolution; which was referred to the Committee on Governmental Affairs:

S. CON. RES. 49

*Resolved by the Senate (the House of Representatives concurring),*

**SECTION 1. USE OF CAPITOL GROUNDS FOR AMERICA RECYCLES DAY NATIONAL KICK-OFF CAMPAIGN.**

The ''America Recycles Day'' campaign and its agents may sponsor a public event on the Capitol Grounds on September 30, 1997, or on such date as the Speaker of the House of Representatives and the President pro tempore of the Senate may jointly designate.

**SEC. 2. TERMS AND CONDITIONS.**

(a) IN GENERAL.—The event authorized under section 1 shall be free to the public and arranged so as not to interfere with the needs of Congress, under conditions to be prescribed by the Architect of the Capitol and the Capitol Police.

(b) EXPENSES AND LIABILITIES.—''America Recycles Day'' and its agents shall assume full responsibility for all expenses and liabilities incident to all activities associated with the event.

**SEC. 3. EVENT PREPARATIONS.**

(a) STRUCTURES AND EQUIPMENT.—Subject to the approval of the Architect of the Capitol, ''America Recycles Day'' and its agents are authorized to erect on the Capitol Grounds any stage, tent, sound amplification devices, and other related structures and equipment required for the event authorized under section 1.

(b) ADDITIONAL ARRANGEMENTS.—The Architect of the Capitol and the Capitol Police Board are authorized to make any other reasonable arrangements as may be required to plan for or administer the event.

## SENATE RESOLUTION 111—TO DESIGNATE NATIONAL HISTORICALLY BLACK COLLEGES AND UNIVERSITIES WEEK

Mr. THURMOND submitted the following resolution which was referred to the Committee on the Judiciary:

S. RES. 111

Whereas there are 116 historically black colleges and universities in the United States:

Whereas black colleges and universities provide the quality education so essential to full participation in a complex, highly technological society;

Whereas black colleges and universities have a rich heritage and have played a prominent role in American history;

Whereas black colleges and universities have allowed many underprivileged students to attain their full potential through higher education; and

Whereas the achievements and goals of historically black colleges and universities are deserving of national recognition: Now, therefore, be it

*Resolved,* That the Senate—

(1) designates the week beginning September 14, 1997, as ''National Historically Black Colleges and Universities Week''; and

(2) requests that the President of the United States issue a proclamation calling on the people of the United States and interested groups to observe the week with appropriate ceremonies, activities, and programs to demonstrate support for historically black colleges and universities in the United States.

Mr. THURMOND. Mr. President, I am pleased to rise today to submit a Senate resolution which authorizes and requests the President to designate the week beginning September 14, 1997, as ''National Historically Black Colleges and Universities Week''.

It is my privilege to sponsor this legislation for the 12th time—I repeat, the 12th time—honoring the historically black colleges of our country.

Eight of the one hundred and sixteen historically black colleges, namely Allen University, Benedict College, Claflin College, South Carolina State University, Morris College, Voorhees College, Denmark Technical College, and Clinton Junior College, are located in my home State. These colleges are vital to the higher education system of South Carolina. They have provided thousands of economically disadvantaged young people with the opportunity to obtain a college education.

Mr. President, thousands of young Americans have received quality educations at these 116 schools. These institutions have a long and distinguished history of providing the training necessary for participation in a rapidly changing society. Historically black colleges offer our citizens a variety of curricula and programs through which young people develop skills and talents, thereby expanding opportunities for continued social progress.

Mr. President, through adoption of this Senate resolution, Congress can reaffirm its support for historically black colleges, and appropriately recognize their important contributions to our Nation. I look forward to the speedy adoption of this resolution.

## SENATE RESOLUTION 112—CONCERNING THE RECENT HOSTILITIES IN THE REPUBLIC OF CONGO

Mr. ASHCROFT (for himself and Mr. FEINGOLD) submitted the following resolution; which was referred to the Committee on Foreign Relations.

S. RES. 112

Whereas the Republic of Congo began to take significant steps after 1989 to implement a democratic form of government, including the convening of a national conference in 1991 and the adoption of a multiparty constitution in 1992;

Whereas the Republic of Congo held its first free and fair democratic elections in 1992, in which Pascal Lissouba won the presidency with 61 percent of the vote, defeating the former military ruler Denis Sassou-Nguesso in the first round of voting and current Brazzaville Mayor Bernard Kolelas in the second;

Whereas the Republic of Congo has endured violent threats to its nascent democracy since 1993, including factional fighting between the country's leading political figures which has taken thousands of lives;

Whereas fighting in the Republic of Congo is preventing the country from holding its scheduled elections and has endangered the lives of its citizens and foreign nationals residing in the country; and

Whereas the preservation of democracy in the Republic of Congo and the peaceful transfer of power through national elections are critically important for the future of freedom in the Republic of Congo and all of Central Africa: Now, therefore, be it

*Resolved,* That the Senate of the United States—

(1) condemns violent attempts to overthrow the freely elected Government of the Republic of Congo and encourages all parties involved in the conflict to reach a lasting cease-fire;

(2) calls on all private militia to disband to end the continuing threat to peace and stability in the Republic of Congo;

(3) reaffirms its support for constitutional government, the rule of law, human rights, and democratic processes in the Republic of Congo and calls upon regional African leaders to support the preservation of a democratic political system in the country;

(4) declares that the removal of the democratically elected Government of the Republic of Congo by other than democratic means would severely restrict the bilateral relationship between the United States and the Republic of Congo, including the suspension of most bilateral assistance from the United States to the Republic of Congo; and

(5) encourages the United States Government to state publicly its strong support for a democratic government in the Republic of Congo and the peaceful transfer of power in that country.

Mr. ASHCROFT. Mr. President, I send a resolution to the desk concerning recent fighting in the Republic of Congo. Senator FEINGOLD is joining me as an original cosponsor of this resolution, and I greatly appreciate his support in this effort and his help as the Ranking Member on the Subcommittee on African Affairs of the Foreign Relations Committee.

The Republic of Congo—not to be confused with the neighboring Democratic Republic of Congo, formerly known as Zaire—has been embroiled in domestic unrest since early June when hostilities erupted between the forces of the former military dictator Denis Sassou-Nguesso and troops loyal to the current Congolese leader, President Pascal Lissouba.

President Lissouba defeated Sassou in national elections in 1992. Recent hostilities between the two leaders pose a threat to the nascent democracy that the Republic of Congo has tried to cultivate over the last 5 years.

The Republic of Congo has made significant steps to embrace democracy since the late 1980's. After the collapse of the Soviet Union, the people of the Republic of Congo pressed for democratic change in their own country. Their struggle against political repression was rewarded with the convening of a national conference in 1991 and the adoption of a multiparty constitution in 1992.

The first free national elections were held in 1992. Since that time the Congolese people have endured violent

threats to their emerging democracy. Indeed, factional infighting between rival political groups has taken the lives of several thousand people since 1993.

The most recent outbreak of fighting poses yet another challenge to the people of the Republic of Congo and the liberty they desire for their country. Thankfully, a ceasefire was signed by the warring parties over the weekend of July 12–13, and representatives of President Lissouba and Sassou-Nguesso have been in Libreville, Gabon attempting to negotiate a peace agreement.

It is my sincere hope that negotiations are constructive and that the Republic of Congo is able to move forward and hold elections previously scheduled for July 27, but now delayed indefinitely.

We should make it clear to all parties involved in the conflict in the Republic of Congo that the United States condemns violent attempts to overthrow the democratically-elected government of the Republic of Congo. There is too much at stake in Central Africa right now for the United States to remain silent about instability which threatens the peaceful transfer of power in a country struggling to embrace democracy.

United States foreign policy in Central Africa has failed miserably in restraining the forces of violence which have plagued Rwanda and Burundi, the former Zaire, and now the Republic of Congo. The Clinton administration must address more forcefully the chain of events in Central Africa before the region spirals out of control. A good place to start would be to speak out forcefully in support of democracy in the Republic of Congo and against the violence which threatens the country's stability.

Mr. President, it is time to take a public stand in support of the fragile democracy in the Republic of Congo, which is why I am submitting this resolution today. I hope at the appropriate time my colleagues will vote to condemn the violence now threatening the prospects for constitutional government and the rule of law in the Republic of Congo.

## SENATE RESOLUTION 113—CONGRATULATING THE PEOPLE OF JAMAICA

Mr. GRAHAM submitted the following resolution; which was referred to the Committee on Foreign Relations:

Whereas on August 6, 1962, the people of Jamaica were granted their independence from Great Britain;

Whereas the people of Jamaica will celebrate their 35th anniversary of independence during a four-day ''Emancipation Day'' celebration from August 1 to August 4, 1997;

Whereas the people of Jamaica have practiced a representative democracy for 53 years since the establishment of internal self-governance in 1944;

Whereas under the Administration of Prime Ministers Michael Manley and PJ Patterson, Jamaica has played a leadership role in stimulating trade-based economic development, promoting democracy, fighting the illicit narcotics trade, and fostering the observance of human rights in the Caribbean region;

Whereas more than 2,000,000 Americans are of Jamaican descent, and Jamaican-Americans have made a rich contribution to our society;

Whereas Jamaica and the United States benefit from a healthy commercial relationship that, in 1996, exceeded $2,300,000,000; and

Whereas Jamaica and the United States enjoy strong cultural and social links: Now, therefore, be it

*Resolved,* That the Senate—

(1) congratulates the people of Jamaica on the occasion of the 35th anniversary of Jamaica's independence from Great Britain;

(2) celebrates the strong, entrenched tradition of democratic governance in Jamaica;

(3) recognizes the richness of the contribution to United States of economic, political, social, and cultural life by Americans of Jamaican descent;

(4) commends the Government of Jamaica for its efforts to promote stability and economic growth in the Caribbean region; and

(5) looks forward to the continuance of strong relations and cooperation between the United States and Jamaica.

Mr. GRAHAM. Mr. President, it will be 35 years ago this coming Wednesday, August 6, 1997, that the people of Jamaica were granted their independence from Great Britain. This significant event for the people of Jamaica is cause for great celebration by the citizens of Jamaica as well as all of us who cherish democracy. The United States and Jamaica have been partners working together helping to bring democracy throughout the world. The government of Jamaica was the first of our allies joining our efforts to come to the aid of its neighbor Haiti. Jamaican American citizens contribute to the richness of our nation's cultural heritage. They strengthen the rich cultural and social ties between our nations.

It is therefore fitting that we take this opportunity to congratulate the people of Jamaica during their four day ''Emancipation Day'' celebration August 1, to August 4, 1997.

## SENATE RESOLUTION 114—RELATIVE TO TAIWAN

Mr. TORRICELLI (for himself and Mr. BROWNBACK) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 114

Whereas Hong Kong was acquired by the United Kingdom in 1898 and leased from China for 99 years;

Whereas the treaty through which the Hong Kong territory was leased from China expired on July 1, 1997, at which time Hong Kong reverted to China;

Whereas no treaties exist between the People's Republic of China and Taiwan which determine the future status of Taiwan, and, unlike Hong Kong, Taiwan has been de facto independent since 1949;

Whereas the People's Republic of China attempts to apply to Taiwan the formula commonly known as ''one country, two systems'' in an effort to annex Taiwan to China;

Whereas the People's Republic of China has refused to renounce the use of force against Taiwan and held military exercises in the Taiwan Strait in March 1996 in an attempt to intimidate the people of Taiwan in their first presidential elections; and

Whereas the Taiwan Relations Act states that ''[i]t is the policy of the United States to consider any effort to determine the future of Taiwan by other than peaceful means, including by boycotts or embargoes, a threat to the peace and security of the Western Pacific area and of grave concern to the United States'': Now, therefore, be it

*Resolved,* That it is the sense of the Senate that—

(1) the transfer of Hong Kong to the People's Republic of China does not alter the current and future status of Taiwan;

(2) the future of Taiwan should be determined by peaceful means through a democratic process in accordance with the principle of self-determination, as outlined in the Charter of the United Nations; and

(3) the United States should assist in the defense of Taiwan in case of threats or military attack by the People's Republic of China against Taiwan.

Mr. TORRICELLI. Mr. President, I rise today to join with my colleague, Senator BROWNBACK, in submitting a Sense of Senate Resolution on the Current and Future Status of Taiwan.

This legislation expresses the sense of the Senate that the recent transfer of Hong Kong to the People's Republic of China does not alter the current or future status of Taiwan. The reversion of Hong Kong to China on July 1 has created the impression among some that the situations of Hong Kong and Taiwan are similar. Our resolution makes clear that there are deep differences between these two situations.

Hong Kong reverted to China after the expiration of a treaty signed by China and the United Kingdom in 1898 granting a 99 year lease.

No treaties exist which determine the future status of Taiwan, and Taiwan has maintained a de facto independence since 1949.

The formula of ''one country, two systems'' applied to Hong Kong has no relevance to Taiwan.

China continues to renounce the use of force against Taiwan and as recently as 1996 held military exercises in the Taiwan Strait in an attempt to intimidate the people of Taiwan.

The Taiwan Relations Act makes it the policy of the United States to ''consider any effort to determine the future of Taiwan by other than peaceful means, including by boycotts or embargoes, a threat to the peace and security of the Western Pacific area and of grave concern to the United States.''

Based on these differences, our resolution expresses the sense of the Senate that—

First, the transfer of Hong Kong to the People's Republic of China does not alter the current and future status of Taiwan;

Second, the future of Taiwan should be determined by peaceful means through a democratic process in accordance with the principle of self-determination, as outlined in the Charter of the United Nations; and

Third, the United States should assist in the defense of Taiwan in case of

threats or military attack by the People's Republic of China against Taiwan.

## SENATE RESOLUTION 115—EXPRESSING SUPPORT FOR A NATIONAL DAY OF UNITY

Mrs. BOXER (for herself and Mr. JOHNSON) submitted the following resolution; which was referred to the Committee on Judiciary.

S. RES. 115

Whereas the President has called for a national dialogue on race;

Whereas an appropriate way to meet the President's challenge is to establish a National Day of Unity when all Americans can celebrate their common heritage and shared destiny;

Whereas such a day would be a means to build a bridge that would finally cross the racial and other divides of our Nation and to achieve the unity our Nation desires and needs; and

Whereas no particular day can close all divisions within our Nation, but by coming together on a National Day of Unity, we can focus the dialogue the President seeks, and that the Nation needs: Now, therefore, be it

*Resolved,* That a National Day of Unity should be established in order to facilitate a national dialogue to encourage Americans to renew their commitment to liberty and justice for all and to celebrate our unity.

Mr. JOHNSON. Mr. President, I want to take this opportunity to express my strong support for the Senate Resolution calling for a National Day of Unity submitted by Senator BOXER. This Resolution is a direct response to the President's call for a national dialog on race, and I applaud the timeliness and the intent of Senator BOXER's efforts.

The challenges associated with race relations that we have faced as a nation are apparent throughout our collective history. In my rural state, Native Americans are the largest minority, comprising nearly 8% of the population. Spurred by deep-rooted tensions between Native Americans and non-Indians in South Dakota, the late Governor George Mickelson had the foresight to declare 1990 a Year of Reconciliation on race relations. In his communications with me after this declaration, Mickelson wrote, ''* * * our successes reached beyond anyone's imagination. I do not suggest we have even scraped the surface of all that we have too, but I do suggest that there is a new awareness among the citizens of South Dakota for a need to reconcile, a need to learn about and understand one another's cultures, and a need to put aside old prejudices.''

At the request of the Governor, South Dakota's tribal leaders, and the people of South Dakota, I introduced legislation in the House of Representatives in 1992, calling for a National Year of Reconciliation to focus on healing the breach between Native Americans and non-indians nationwide. That legislation was signed into law by President Bush in May of 1992. Native Americans are a significant, culturally unique and often insular racial minority. In order to understand the history and the future of race relations in the U.S., I have long felt that we must understand the position of Native Americans and the scope of this country's oldest race relationships. The 1992 National Year of Reconciliation legislation was dedicated to the type of dialog that President Clinton has asked for in his broader initiative on race.

Today, the President's Advisory Board on Race Relations has been charged with the enormous task of addressing racial tensions and the impact of race relations on every American. The first meeting of the Race Relations Board held in San Diego, California, indicated that the Board's task is indeed daunting, and that a dialog on race is potentially divisive. It is that very divisiveness which makes the President's initiative so vital. We are all aware that racism and prejudice persist in this country. A national dialog must be encouraged, and an opportunity for full participation by every American of all ethnicities must be provided.

Senator BOXER's Resolution calls on the Congress to follow the President's lead in expanding the dialog and including every voice. If we are to move forward as a nation, we must address the forces that divide us, not only to recognize these forces honestly for what they are, but to strengthen our determination that such forces can be overcome. The Senate has been given a unique opportunity today to express our full support for the mission of the Race Relations Board, and requests the participation of the entire country.

Mr. President, this nation's racial problems cannot be solved by a few people, no matter how well-intentioned. That is why I join Senator BOXER today in asking the country to express its dedication to solving those problems by observing a National Day of Unity.

## SENATE RESOLUTION 116—DESIGNATING AMERICA RECYCLES DAY

Mr. LEVIN (for himself and Mr. JEFFORDS) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 116

Whereas citizens in the United States generate approximately 208,000,000 tons of municipal solid waste a year or 4.3 pounds per person per day;

Whereas the average worker generated between 120 and 150 pounds of recoverable white office paper a year;

Whereas the Environmental Protection agency recently estimated that the recycling rate in the Untied States has reached 27 percent;

Whereas making products from recycled materials allows us to get the most use of every tree, every gallon of oil, every pound of mineral, every drop of water, and every kilowatt of energy that goes into products we buy;

Whereas manufacturing from recycled materials creates less waste and fewer emissions;

Whereas recycling saves energy, reducing the need to deplete nonrenewable energy resources;

Whereas it is estimated that 9 jobs are created for every 15,000 tons of solid waste recycled into a new product,

Whereas recycling is completed only when recovered materials are returned to the retailer as new products, and then purchased by consumers;

Whereas buying recycled products conserves resources and energy, reduces waste and pollution and creates jobs;

Whereas more than 4,500 recycled products are available to consumers;

Whereas we have a two-way, use and reuse system of recycling and buying recycling; and

Whereas Americans support recycling, but need a regular reminder of the importance of buying recycled content products and the availability of recycled content products and instructions on how to recycle: Now, therefore, be it

*Resolved,* That the Senate—

(1) designates November 15, 1997, and November 15, 1998, as ''America Recycles Day''; and

(2) requests that the President issue a proclamation calling on the people of the United States to observe ''America Recycles Day'' with appropriate ceremonies and activities.

## AMENDMENT SUBMITTED

### THE ENVIRONMENTAL POLICY AND CONFLICT RESOLUTION ACT OF 1997

### McCAIN AMENDMENT NO. 1047

(Ordered to lie on the table.)

Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill (S. 399) to amend the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 to establish the U.S. Institute for Environmental Conflict Resolution to conduct environmental conflict resolution and training, and for other purposes; as follows:

Beginning on page 14, strike line 17 and all that follows through page 15, line 3, and insert the following:

**SEC. 6. ENVIRONMENTAL DISPUTE RESOLUTION FUND.**

(a) REDESIGNATION.—Sections 10 and 11 of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5608, 5609) are redesignated as sections 12 and 13 of that Act, respectively.

(b) ENVIRONMENTAL DISPUTE RESOLUTION FUND.—The Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5601 et seq.) (as amended by section (a)) is amended by inserting after section 9 the following:

**''SEC. 10. ENVIRONMENTAL DISPUTE RESOLUTION FUND.**

''(a) ESTABLISHMENT.—There is established in the Treasury of the United States an Environmental Dispute Resolution Fund to be administered by the Foundation. The Fund shall consist of amounts appropriated to the Fund under section 13(b) and amounts paid into the Fund under section 11.

''(b) EXPENDITURES.—The Foundation Shall expend from the Fund such sums as the Board determines are necessary to establish and operate the Institute, including such

amounts as are necessary for salaries, administration, the provision of mediation and other services, and such other expenses as the Board determines are necessary.

''(c) DISTINCTION FROM TRUST FUND.—The Fund shall be maintained separately from the Trust Fund established under section 8.

''(d) INVESTMENT OF AMOUNTS.—

''(1) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary, required to meet current withdrawals.

''(2) INTEREST-BEARING OBLIGATIONS.—Investments may be made only in interest-bearing obligations of the United States

''(3) ACQUISITION OF OBLIGATIONS.—For the purpose of investments under paragraph (1), obligations may be acquired—

''(A) on original issue at the issue price; or

''(B) by purchase of outstanding obligations at the market price.

''(4) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

''(5) CREDITS TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.''.

**SEC. 7. USE OF THE INSTITUTE BY A FEDERAL AGENCY.**

The Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5601 et seq.) (as amended by section 6) is amended by inserting after section 10 the following:

**''SEC. 11. USE OF THE INSTITUTE BY A FEDERAL AGENCY.**

On page 15, strike lines 13 through 16 and insert the following:

''(2) PAYMENT INTO ENVIRONMENTAL DISPUTE RESOLUTION FUND.—A payment from an executive agency on a contract entered into under paragraph (1) shall be paid into the Environmental Dispute Resolution Fund established under section 10.

On page 17, line 1, strike ''**SEC. 7**.'' and insert ''**SEC. 8**''.

On page 17, line 2, strike ''Section 12'' and insert ''Section 13''.

On page 17, strike lines 11 through 13 and insert the following:

''(b) ENVIRONMENTAL DISPUTE RESOLUTION FUND.—There are authorized to be appropriated to the Environmental Dispute Resolution Fund established under section 10—

On page 17, line 21, strike ''**SEC. 8**.'' and insert ''**SEC. 9**.''.

On page 18, line 4, strike ''12'' and insert ''13(a)''.

## THE JOHN F. KENNEDY CENTER PARKING IMPROVEMENT ACT OF 1997

### CHAFEE AMENDMENT NO. 1048

Mr. DOMENICI (for Mr. CHAFEE) proposed an amendment to the bill (S. 797) to amend the John F. Kennedy Center Act to authorize the design and construction of additions to the parking garage and certain site improvements, and for other purposes; as follows:

Page 3, line 7, strike ''or''.

Page 3, line 12, strike the first period and all that follows and insert ''; or''.

Page 3, after line 12, insert the following:

''(C) any project to acquire large screen format equipment for an interpretive theater or to produce an interpretive film that the board specifically designates will be financed using sources other than appropriated funds.''.

Page 4, strike lines 9 through 14.

Page 4, line 15, strike ''5'' and insert ''4''.

### DOMENICI (AND BINGAMAN) AMENDMENT NO. 1049

Mr. DOMENICI (for himself and Mr. BINGAMAN) proposed an amendment to the bill, S. 797, supra; as follows:

At the appropriate place, insert the following:

**SEC. ___. CONSTRUCTION OF A CENTER FOR PERFORMING ARTS.**

(a) FINDINGS.—Congress makes the following findings:

(1) The United States has an enriched legacy of Hispanic influence in politics, government, economic development, and cultural expression.

(2) The Hispanic culture in what is now the United States can be traced to 1528 when a Spanish expedition from Cuba to Florida was shipwrecked on the Texas coast.

(3) The Hispanic culture in New Mexico can be traced to 1539 when a Spanish Franciscan Friar, Marcos de Niza, and his guide, Estevanico, traveled into present day New Mexico in search of the fabled city of Cibola and made contact with the people of Zuni.

(4) The Hispanic influence in New Mexico is particularly dominant and a part of daily living for all the citizens of New Mexico, who are a diverse composite of racial, ethnic, and cultural peoples. Don Juan de Oarte and the first New Mexican families established the first capital in the United States, San Juan de los Cabelleros, in July of 1598.

(5) Based on the 1990 census, there are approximately 650,000 Hispanics in New Mexico, the majority having roots reaching back ten or more generations.

(6) There are an additional 200,000 Hispanics living outside of New Mexico with roots in New Mexico.

(7) The New Mexico Hispanic Cultural Center is a living tribute to the Hispanic experience and will provide all citizens of New Mexico, the Southwestern United States, the entire United States, and around the world, an opportunity to learn about, partake in, and enjoy the unique Hispanic culture, and the New Mexico Hispanic Cultural Center will assure that this 400-year old culture is preserved.

(8) The New Mexico Hispanic Cultural Center will teach, showcase, and share all facets of Hispanic culture, including literature, performing arts, visual arts, culinary arts, and language arts.

(9) The New Mexico Hispanic Cultural Center will promote a better cross-cultural understanding of the Hispanic culture and the contributions of individuals to the society in which we all live.

(10) In 1993, the legislature and Governor of New Mexico created the Hispanic Cultural Division as a division within the Office of Cultural Affairs. One of the principal responsibilities of the Hispanic Cultural Division is to oversee the planning, construction, and operation of the New Mexico Hispanic Cultural Center.

(11) The mission of the New Mexico Hispanic Cultural Center is to create a greater appreciation and understanding of Hispanic culture.

(12) The New Mexico Hispanic Cultural Center will serve as a local, regional, national, and international site for the study and advancement of Hispanic culture, expressing both the rich history and the forward-looking aspirations of Hispanics throughout the world.

(13) The New Mexico Hispanic Cultural Center will be a Hispanic arts and humanities showcase to display the works of national and international artists, and to provide a venue for educators, scholars, artists, children, elders, and the general public.

(14) The New Mexico Hispanic Cultural Center will provide a venue for presenting the historic and contemporary representations and achievements of the Hispanic culture.

(15) The New Mexico Hispanic Cultural Center will sponsor arts and humanities programs, including programs related to visual arts of all forms (including drama, dance, and traditional and contemporary music), research, literary arts, genealogy, oral history, publications, and special events such as, fiestas, culinary arts demonstrations, film video productions, storytelling presentations and education programs.

(16) Phase I of the New Mexico Hispanic Cultural Center complex is scheduled to be completed by August of 1998 and is planned to consist of an art gallery with exhibition space and a museum, administrative offices, a restaurant, a ballroom, a gift shop, an amphitheater, a research and literary arts center, and other components.

(17) Phase II of the New Mexico Hispanic Cultural Center complex is planned to include a performing arts center (containing a 700-seat theater, a stage house, and a 300-seat film/video theater), a 150-seat black box theater, an art studio building, a culinary arts building, and a research and literary arts building.

(18) It is appropriate for the Federal Government to share in the cost of constructing the New Mexico Hispanic Cultural Center because Congress recognizes that the New Mexico Hispanic Cultural Center has the potential to be a premier facility for performing arts and a national repository for Hispanic arts and culture.

(b) DEFINITIONS.—In this section:

(1) CENTER.—The term ''Center'' means the Center for Performing Arts, within the complex known as the New Mexico Hispanic Cultural Center, which Center for the Performing Arts is a central facility in Phase II of the New Mexico Hispanic Cultural Center complex.

(2) HISPANIC CULTURAL DIVISION.—The term ''Hispanic Cultural Division'' means the Hispanic Cultural Division of the Office of Cultural Affairs of the State of New Mexico.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(c) CONSTRUCTION OF CENTER.—The Secretary shall award a grant to New Mexico to pay for the Federal share of the costs of the design, construction, furnishing, and equipping of the Center for Performing Arts that will be located at a site to be determined by the Hispanic Cultural Divison, within the complex known as the New Mexico Hispanic Cultural Center.

(d) GRANT REQUIREMENTS.—

(1) IN GENERAL.—In order to receive a grant awarded under subsection (c), New Mexico, acting through the Director of the Hispanic Cultural Division—

(A) shall submit to the Secretary, within 30 days of the date of enactment of this section, a copy of the New Mexico Hispanic Cultural Center Program document dated January 1996; and

(B) shall exercise due diligence to expeditiously execute, in a period not to exceed 90 days after the date of enactment of this section, the memorandum of understanding under paragraph (2) recognizing that time is of the essence for the construction of the Center because 1998 marks the 400th anniversary of the first permanent Spanish settlement in New Mexico.

(2) MEMORANDUM OF UNDERSTANDING.—The memorandum of understanding described in paragraph (1) shall provide—

(A) the date of completion of the construction of the Center;

(B) that Antoine Predock, an internationally recognized architect, shall be the supervising architect for the construction of the Center;

(C) that the Director of the Hispanic Cultural Division shall award the contract for architectural engineering and design services in accordance with the New Mexico Procurement Code; and

(D) that the contract for the construction of the Center—

(i) shall be awarded pursuant to a competitive bidding process; and

(ii) shall be awarded not later than 3 months after the solicitation for bids for the construction of the Center.

(3) FEDERAL SHARE.—The Federal share of the costs described in subsection (c) shall be 50 percent.

(4) NON-FEDERAL SHARE.—The non-Federal share of the costs described in subsection (c) shall be in cash or in kind fairly evaluated, including plant, equipment, or services. The non-Federal share shall include any contribution received by New Mexico for the design, construction, furnishing, or equipping of Phase I or Phase II of the New Mexico Hispanic Cultural Center complex prior to the date of enactment of this section. The non-Federal share of the costs described in subsection (c) shall include the following:

(A) $16,410,000 that was appropriated by the New Mexico legislature since January 1, 1993, for the planning, property acquisition, design, construction, furnishing, and equipping of the New Mexico Hispanic Cultural Center complex.

(B) $116,000 that was appropriated by the New Mexico legislature for fiscal year 1995 for the startup and operating expenses of the New Mexico Hispanic Cultural Center.

(C) $226,000 that was appropriated by the New Mexico legislature for fiscal year 1996 for the startup and operating expenses of the New Mexico Hispanic Cultural Center.

(D) $442,000 that was appropriated by the New Mexico legislature for fiscal year 1997 for the startup and operating expenses of the New Mexico Hispanic Cultural Center.

(E) $551,000 that was appropriated by the New Mexico legislature for fiscal year 1998 for the startup and operating expenses of the New Mexico Hispanic Cultural Center.

(F) A 10.9-acre lot with a historic 22,000 square foot building donated by the Mayor and City Council of Albuquerque, New Mexico, to New Mexico for the New Mexico Hispanic Cultural Center.

(G) 12 acres of ''Bosque'' land adjacent to the New Mexico Hispanic Cultural Center complex for use by the New Mexico Hispanic Cultural Center.

(H) The $30,000 donation by the Sandia National Laboratories and Lockheed Martin Corporation to support the New Mexico Hispanic Cultural Center and the program activities of the New Mexico Hispanic Cultural Center.

(e) USE OF FUNDS FOR DESIGN, CONSTRUCTION, FURNISHING, AND EQUIPMENT.—The funds received under a grant awarded under subsection (c) shall be used only for the design, construction, furnishing, and equipment of the Center.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Smithsonian Institution to carry out this section a total of $17,800,000 for fiscal year 1998 and succeeding fiscal years. Funds appropriated pursuant to the authority of the preceding sentence shall remain available until expended.

## GRAHAM (AND MACK) AMENDMENT NO. 1050

Mr. DOMENICI (for Mr. GRAHAM, for himself and Mr. MACK) proposed an amendment to the bill, S. 797, supra; as follows:

At the appropriate place insert the following:

**SEC. . CONSTRUCTION OF A CENTER FOR REGIONAL BLACK CULTURE.**

(a) FINDINGS.—Congress makes the following findings:

(1) Currently 500,000 historically important artifacts of the Civil War era and the early days of the civil rights movement in the Southeast region of the United States are housed at Florida A&M University.

(2) To preserve this large repertory of African-American history and artifacts it is appropriate that the Federal Government share in the cost of construction of this national repository for culture and history.

(b) DEFINITION.—In this section:

(1) CENTER.—The term ''Center'' relates to the Center for Historically Black Heritage at Florida A&M University.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Interior Acting through the director of the Park Service.

(c) CONSTRUCTION OF CENTER.—

(1) IN GENERAL.—the Secretary shall award a grant to the State of Florida to pay for the Federal share of the costs design construction, furnishing and equipping the Center at Florida A&M University.

(d) GRANT REQUIREMENTS.—

(1) IN GENERAL.—In order to receive the grant awarded under subsection (c), Florida A&M University, shall submit to the Secretary a proposal.

(2) FEDERAL SHARE.—The Federal share of the costs described in subsection (c) shall be 50 percent.

(e) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated to the Secretary of Interior to carry out this section a total of $3,800,000 fiscal year 1998 and preceding fiscal years. Funds appropriated pursuant to the authority of the preceding sentence should remain available until expanded.

## CHAFEE AMENDMENTS NOS. 1051—1052

Mr. DOMENICI (for Mr. CHAFEE) proposed two amendments to the bill, S. 797, supra; as follows:

AMENDMENT NO. 1051

At the end of the bill, add the following:

**SEC. . RELOCATION AND EXPANSION OF HAFFENREFFER MUSEUM OF ANTHROPOLOGY.**

(a) DEFINITIONS.—In this section:

(1) MUSEUM.—The term ''Museum'' means the Haffenreffer Museum of Anthropology at Brown University in Providence, Rhode Island.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) RELOCATION AND EXPANSION OF MUSEUM.—The Secretary shall make a grant to Brown University in Providence, Rhode Island, to pay the Federal share of the costs associated with the relocation and expansion of the Museum, including the design, construction, renovation, restoration, furnishing, and equipping of the Museum.

(c) GRANT REQUIREMENTS.—

(1) IN GENERAL.—To receive a grant under subsection (b), the Museum shall submit to the Secretary a proposal for the use of the grant.

(2) FEDERAL SHARE.—The Federal share of the costs described in subsection (b) shall be 20 percent.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $3,000,000, to remain available until expended.

AMENDMENT NO. 1052

At the end of the bill add the following new section:

**SEC. . ENVIRONMENTAL RESEARCH CENTER.**

(a) IN GENERAL.—The Secretary of the Interior shall award a grant to Juniata College for the construction of an environmental research facilities and structures at Raystown Lake, Pennsylvania.

(b) COORDINATION.—As a condition to receipt of the grant authorized in subsection (a), officials of Juniata College shall coordinate with the Baltimore District of the Army Corps of Engineers.

(c) APPROPRIATIONS AUTHORIZED.—There is authorized to be appropriateD $5,000,000 to carry out this section.

## BAUCUS AMENDMENT NO. 1053

Mr. DOMENICI (for Mr. BAUCUS) proposed an amendment to the bill, S. 797, supra; as follows:

At the end of the bill add the following new section:

**SEC. . FORT PECK DAM INTERPRETIVE CENTER**

(a) IN GENERAL.—The Secretary of the Interior shall design, construct, furnish and equip an historical, cultural and paleontological interpretive center and museum to be located at Fort Peck Dam, Montana.

(b) COORDINATION.—In carrying out subsection (a), the Secretary of the Interior shall coordinate with officials of the Bureau of Reclamation, Bureau of Land Management, U.S. Army Corps of Engineers and the Fort Peck Dam Interpretive Center and Museum.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section a total of $10,000,000. Funds appropriated are available until expended.

# THE EARTHQUAKE HAZARDS REDUCTION ACT APPROPRIATIONS AUTHORIZATION ACT

## FRIST AMENDMENT NO. 1054

Mr. WARNER (for Mr. FRIST) proposed an amendment to the bill (S. 910) to authorize appropriations for carrying out the Earthquake Hazards Reduction Act of 1977 for fiscal years 1998 and 1999, and for other purposes; as follows:

On page 9, line 19, strike ''$51,142,000'' and insert ''$52,565,000''.

On page 9, line 22, strike ''$52,676,000'' and insert ''$54,052,000''.

# THE U.S. DISTRICT COURTS APPROPRIATIONS AUTHORIZATION ACT

## BIDEN AMENDMENT NO. 1055

Mr. WARNER (for Mr. BIDEN) proposed an amendment to the bill (S. 996) to provide for the authorization of appropriations in each fiscal year for arbitration in United States district courts; as follows:

At the end of the bill, add the following new section:

**SEC. 2. ENHANCEMENT OF JUDICIAL INFORMATION DISSEMINATION.**

Section 103(b)(2) of the Civil Justice Reform Act of 1990 (Public Law 101–650; 104 Stat. 5096; 28 U.S.C. 471 note) is amended—

(1) by inserting ''(A)'' after ''(2)'';

(2) by striking ''sections 471 through 478'' and inserting ''sections 472, 473, 474, 475, 477, and 478''; and

(3) by adding at the end of the following new subparagraph:

''(B) The requirements set forth in section 476 of title 28, United States Code, as added by subsection (a), shall remain in effect permanently.''.

## NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES, SUBCOMMITTEE ON ENERGY RESEARCH, DEVELOPMENT, PRODUCTION AND REGULATION

Mr. NICKLES. Mr. President, for the information of the Senate and the public I am announcing that the Subcommittee on Energy Research, Development, Production and Regulation of the Committee on Energy and Natural Resources will hold an oversight hearing to receive testimony on the topic of competitive Change in the Electric Power Industry: the Oklahoma Perspective.

The hearing will be held on Thursday, August 21, 1997, at the Oklahoma City Community College theater, 777 South May Avenue, Oklahoma City, Oklahoma. It will begin at 1:30 p.m.

Participation is by invitation. Those interested in testifying or submitting material for the hearing record should write to the Subcommittee on Energy Research, Development, Production and Regulation, Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510 attn: Shawn Taylor at (202) 224–7875 or Howard Useem (202) 224–6567.

## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. ROTH. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Thursday, July 31, 1997 at 9:00 a.m. in SR–328A to examine food security in Africa.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. ROTH. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet in executive session during the session of the Senate on Thursday, July 31, 1997, to conduct a mark-up of S. 1026, ''The U.S. Export-Import Bank Reauthorization Act of 1997.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. ROTH. Mr. President, I ask unanimous consent that the Committee on Commerce, Science and Transportation be authorized to meet on Thursday, July 31, 1997, at 9:30 a.m. on S. 268—National Parks Overflights.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. ROTH. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, July 31, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this oversight hearing is to receive testimony from the Forest Service on their organizational structure, staffing, and budget for the Alaska Region.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. ROTH. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee Special Investigation to meet on Thursday, July 31, at 10 a.m., for a hearing on campaign financing issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. ROTH. Mr. President, I ask unanimous consent that the Committee on the Judiciary, be authorized to hold an executive business meeting during the session of the Senate on Thursday, July 31, 1997, at 10:00 a.m., in room 226 of the Senate Dirksen Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. ROTH. Mr. President, I ask unanimous consent that the Committee on Rules and Administration hold a business meeting at 11:30 a.m. on Thursday, July 31, 1997 in Russell 301, on the status of the investigation into the contested Senate election in Louisiana at which the Committee could consider and vote upon a resolution, or resolutions, prescribing the future course of action to be taken by the Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON IMMIGRATION

Mr. ROTH. Mr. President, I ask unanimous consent that the Subcommittee on Immigration, of the Senate Committee on the Judiciary, be authorized to meet during the session of the Senate on Thursday, July 31, 1997, at 2:00 p.m. to hold a hearing in room 226, Senate Dirksen Building, on: ''Annual Refugee Consultation.''

The PRESIDING OFFICER. Without objection, it is so ordered.

## ADDITIONAL STATEMETNS

### INTERNATIONAL DOLPHIN CONSERVATION ACT

● Mr. SMITH of New Hampshire. Mr. President, I would like to comment briefly on yesterday's unanimous passage of S. 39, the International Dolphin Conservation Act after the Senate had adopted a compromise amendment.

I joined with my colleagues in supporting this effort to bridge the gap between the two sides because I believe that it was the result of sincere movement by both sides, a true compromise. As originally written, S. 39 would have permitted tuna caught by chasing dolphins and encircling them in purse-seine nets to be labeled dolphin-safe. The compromise amendment adopted by the Senate yesterday preserves the existing dolphin-safe label until the Secretary of Commerce has the opportunity to review a study of the effects of encirclement on endangered dolphin populations. This means that the label change will take place no sooner than March 1997.

I must admit that the need for such a study is not entirely clear to me. I think that any method of fishing for tuna that involves chasing schools of dolphins through miles of ocean and encircling them—in nets a mile wide and as deep as a football field is long—cannot honestly be described as safe for dolphins. I only hope that the studies that will be conducted will be anchored in common sense. If they are, I am confident that the label change will not take place.

Unfortunately, common sense may take a back seat to pressures from foreign governments, the same pressures that gave rise to S. 39 in the first place. It's no secret that the countries that permit dolphin-deadly fishing would like to have access to the American tuna market—the world's largest—even if it means that our consumer standards have to be gutted in the process. I regret that too many in Congress and in the administration have failed to resist this pressure and defend our country's laws.

In that connection, I would like to associate myself with the remarks of Senator BOXER, a valued colleague but one with whom I do not typically find myself in agreement. Before the Senate voted on this issue, Senator BOXER said: ''American laws should be made by Americans * * * American laws should not be made by other countries.'' Senator BOXER has it exactly right. This issue has aroused the passionate interest of humane groups others concerned with dolphin welfare, but it should also be of concern to anyone concerned about the integrity of our governing institutions and the preservation of the sovereign right of the American people to make their laws through those institutions. I trust that we will have the opportunity to revisit that question.

Finally, I would like to take this opportunity to say that Senator BOXER has done a tremendous job of standing up for what is right on this issue and I salute her efforts and those of the others who brought the sponsors of S. 39 to the table. Without Senator BOXER's steadfast efforts, this compromise and the opportunity to preserve the dolphin-safe label it provides would not have been possible. ●

STUDENT SUPPORT SERVICES

● Mr. ROCKEFELLER. Mr. President, I would like to take this opportunity to recognize two students of Potomac State College in West Virginia who have accomplished great feats through the assistance of our Federal TRIO programs. These programs have helped students for more than 30 years to overcome financial barriers to education.

Paul Kesner was a participant in the student support services program at Potomac State from 1977 to 1979. This section of the TRIO programs helps students to stay in college until they earn their baccalaureate degree by providing tutoring, counseling, and financial assistance. Not only was Paul able to earn his BA, he went on to obtain an MS in counseling psychology from Frostburg State University, and is currently working on his dissertation to earn a Ph.D. from West Virginia University. Paul is currently the Dean of Student Affairs at Potomac State College.

Paul was recently elected to be president of the West Virginia Association of Student Personnel Administrators. Paul is also very active in Rotary International and various other local civic organizations in his community. Paul, who grew up on a farm in Mineral County, WV, notes that, ''I am grateful for the impact and change TRIO had on my life. Without it, I certainly would not be in a situation to help others progress toward their own educational goals.''

Michelle Francis participated in the student support services program at Potomac State from 1989 to 1990. This Federal program helped Michelle to graduate from college and to make the career choices that she wanted to make. After earning an associate's degree from Potomac State, Michelle went on to earn her BA from Frostburg State University.

Michelle is presently the day treatment coordinator at the developmental center & workshop in Keyser. Like Paul, Michelle is also very active in her community, serving in the Ladies Auxiliary of the American Legion, and as a mentor at the Mountaineer Challenge Academy. Michelle was also awarded the 1996 West Virginia TRIO achiever award.

As the fine results of these two West Virginia citizens demonstrate, the TRIO programs are clearly helping Americans to overcome financial, social, academic and cultural barriers to earn their college degrees. Since 1965, when the Federal TRIO programs began receiving funding under title IV of the Higher Education Act, the facts have shown that students who participate in the TRIO student support services program are more than twice as likely to remain in college than those students from similar backgrounds who did not participate in the program.

Paul and Michelle have joined the ranks of many West Virginians who have achieved outstanding feats after participating in the TRIO programs. Thirty years ago, the TRIO programs were founded on the basis that all Americans deserved the opportunity to achieve a college education regardless of race, ethnic background, or economic circumstances. Today, the town of Keyser is a better place in which to live because of the contributions of Paul Kesner and Michelle Francis to the community. Because the TRIO programs were there for Michelle and Paul, they have been able to be there for the benefit of other West Virginians.

I know that the TRIO programs will continue to help future West Virginia students to obtain a college degree, and because of this, these future students will be able to benefit their respected communities in much the same way that Paul and Michelle help the city of Keyser, WV. The TRIO programs don't just create a real society of opportunity for everyone, they result in better cities and communities throughout the State of West Virginia and nationwide.●

RECOGNITION OF ALASKA QUARTERLY REVIEW

● Mr. MURKOWSKI. Mr. President, I rise today to recognize a significant achievement for the literary arts in Alaska and for the University of Alaska system, in general, and the University of Alaska Anchorage, in specific.

Last month, on June 8, 1997, the spring and summer 1997 edition of the Alaska Quarterly Review was recognized in the Washington Post book review section, Book World, as ''one of the nation's best literary magazines.'' That is high praise indeed coming from the Eastern press, and justified, if not long overdue recognition, of the literary prowess of the publication.

In the 15 years since its inception at the Anchorage campus of the University of Alaska in 1982, the Alaska Quarterly Review (AQR) has served as an instrument to give voice to Alaska writers and poets, while also publishing the best of material from non-Alaskan authors. While the AQR is firmly rooted in Alaska, it maintains a national perspective—bridging the distance between the literary centers and Alaska, while also sharing an Alaskan perspective. This balanced presentation of views has earned AQR local, regional and national/international recognition over the years. It is nice that recognition now also has come from a publication in the Nation's Capital.

''Congratulations for publishing one of the best among the literary magazines,'' said Carl Houck Smith, vice president and editor of W.W. Norton, in comments made in May 1994.

''AQR is highly recommended and deserves applause,'' said Bill Katz in the Library Journal.

''It is an impressive publication, comprising as diverse and rewarding an aggregation of work as a reader is likely to find in any literary journal,'' added Patrick Parks in the Literary Magazine Review.

''The Magazine has a wonderful sense of place about it, and it conveys Alaska without being parochial. It's not pushing a particular agenda. There's no coterie of writers made up of the editor's friends. The work is original and fresh,'' says contributing editor Stuart Dybek in explaining the publication's success.

The review, for example, won the 1996 Alaska Governor's Award for the Arts—Alaska's highest award in the arts. Recent works in the review have been selected for or won:

- 1997 Prize Stories: The O. Henry Awards (Anchor Books/Doubleday).
- 1996 Prize Stories: The O. Henry Awards (Anchor Books/Doubleday).
- 1996 Best American Poetry (Scribner)
- 1995 Best American Essays (Houghton Mifflin)
- 1995 Andres Berger Award (Northwest Writers Inc.)
- The Pushcart Prize (1995–96 Pushcart Prize XX and 1996–97 Pushcart Prize XXI: The Best of the Small Presses).
- UAA's 1995 Chancellor's Group Award for Excellence in research and creative activity.
- 1994 Special Recognition Award from the Alaska Center for the Book.
- And numerous mentions in the Chronicle of Higher Education, the Small Press Review, Best American Essays, Novel and Short Story Writers Market, and in a host of other publications.

I rise today to honor the publication, not just because of its many awards, but because many Alaskans do not understand or appreciate the breadth and scope of the publication and how important it has become as a gateway for Alaskan authors to winning recognition from a wider literary audience. And also how it has helped to improve the literary quality of the works of Alaskan writers. I hope by these words, Alaskans will recognize how fortunate the 49th State is to have such a quality publication being edited and published from Anchorage.

I want to thank the University of Alaska Board of Regents and the leadership of the University of Alaska Anchorage for supporting the publication. Alaska's university system has been facing difficult economic times because of falling Alaska State revenues. It has taken a tremendous commitment to academic excellence to continue the funding necessary to permit the review to be a quality publication and artistic success. The University deserves great credit for its efforts at promoting the publications in these difficult financial times. It is because of the need for more revenues for the University to permit it to reach the highest level of greatness possible that I have introduced legislation to help the University finally gain the land-grant entitlement it should have received at its founding. I hope that this Congress will look favorably on my bill, S. 660. The

University of Alaska Land grant bill, to help the University gain the economic means to support such important endeavors. But more on that in the future, following committee review of the legislation, likely this fall.

I also want to thank and publicly recognize the work of Ronald Spatz, the executive editor and founding editor of the review for all of his efforts on its behalf. Mr. Spatz, currently professor and chair of the University of Alaska Anchorage's Department of Creative Writing and Literary Arts and director of UAA's honors program, has been a member of the faculty since 1980. A professor, who has been recognized with commendations for ''Outstanding Leadership'' by the University's Board of Regents and the President of the statewide system, Mr. Spatz is the former chair of the University of Alaska Statewide Assembly, president of the UAA Assembly and the vice president of the Faculty Senate. He is the winner of two university-wide teaching awards: The Chancellor's Award for Excellence in Teaching and the Distinguished Teacher of the Year Award presented by the UAA Alumni Association.

Mr. Spatz, a film maker and writer, besides editor, has produced, directed, photographed and edited a range of short subject and expressionist documentary films for children and adults. Several of the films are in national distribution; his film, ''For the Love of Ben,'' was broadcast nationally on public television and his stories and articles have appeared in a host of publications. He has received a total of more than 35 individual and project grants for his works.

For the future, due to a grant from the National Endowment for the Arts, which has provided three major awards (grants) to the publication, AQR this fall will be issuing a special anthology. ''Intimate Voice, Ordinary Lives: Stories of Fact and Fiction.''

Mr. President, Alaska, in fact all of America, is far richer artistically because of the review's presence over the past 15 years. It truly is a window for Americans to view society in Alaska at the close of the 20th century, and a worthy stage for the serious works of all writers. I commend it and its contributors for its many achievements, and I know all members of the U.S. Senate join me in wishing it continued literary success.●

## WOMEN'S BUSINESS DEVELOPMENT CENTER

●Mr. DURBIN. Mr. President, I rise today to commend the Women's Business Development Center for the vital role it has played in accelerating women's business ownership and strengthening the impact that women have made on our economy.

The Women's Business Development Center is a nationally-recognized not-for-profit center devoted to providing services and programs that support and increase women's business ownership. Founded in 1986, more than 30,000 business owners in six States, including my home State of Illinois, have benefited from the program. The services range from counseling to workshops to entrepreneurial training.

Today, thanks to efforts by organizations such as the Women's Business Development Center, there are over 7.7 million women-owned businesses in the United States, generating $2.3 trillion in sales. Women business owners now employ one in every four U.S. company workers. There is no doubt that women in business today are playing a prominent role in stimulating economic growth both at home and abroad.

On September 12 of this year the Women's Business Development Center will celebrate its 11th anniversary. As the Center moves into its second decade of service to women business owners, I am proud to recognize its impressive achievements.●

## ARMY SGT. KELLY S. YARDE

● Mr. LUGAR. Mr. President, I rise today in recognition of Army Sgt. Kelly S. Yarde, who hails from Evansville. Sergeant Yarde, who is currently serving in Bosnia with Operation Joint Guard, was moved by the sadness he saw in the faces of Bosnia's children each time he went out on patrol. In response, he appealed to the people of his hometown and surrounding areas, asking for donations of school supplies, toys and sporting goods that he could give to these children.

Local media helped to publicize Sergeant Yarde's plea, and the community responded in magnificent fashion. Hundreds of donations have already poured in, and are continuing to arrive at collection bins set up at local businesses. Some of the gifts have already been shipped to Bosnia, and Sergeant Yarde has, on his own time, taken them to orphanages and refugee centers.

Americans are, by their nature, very generous people. The fact that we can not solve every problem in the world should not prevent us from solving at least some of them. I am pleased and proud that Sergeant Yarde had the foresight to identify a problem that he could help to solve, and had the faith in his community to ask for help in solving it. I am equally pleased that the people of Evansville and the surrounding area responded so generously to Sergeant Yarde's plea on behalf of the children of Bosnia.●

## RECOGNITION OF SOUTH DAKOTA SOYBEAN GROWERS ON THE DEVELOPMENT OF SOYGOLD

● Mr. JOHNSON. Mr. President, I want to take this opportunity today to recognize the important achievements of SD soybean growers in creating new uses for their agricultural products.

Freeman Coop Oil/Fertilizer in Freeman, SD, recently became the first retail marketer of petroleum to offer SoyGold, a new lubricity additive in premium diesel fuel. SoyGold is a low blend of soybean methyl esters manufactured from 100 percent soybean oil for both on-farm and commercial use. The additive was developed with the use of check-off dollars, which allow farmers to work together to develop new uses for their products. The soybean growers have also worked to test soydiesel for mass transit bus systems, underground mining, and other innovative possibilities.

SoyGold was developed by Ag Processors, Inc. in Omaha, NE, and will be promoted and marketed throughout seven Midwestern States initially. Bill Pape, the general manager of Freeman Coop Oil/Fertilizer, is the first to offer the product to his customers. Dennis Hardy, the chairman of the South Dakota Soybean Council, worked hard to bring this new product to the market. All of these individuals, and many more, deserve credit for their efforts to make SoyGold a reality.

SoyGold is an outstanding example of the way that South Dakota's soybean farmers and their various associations can cooperate and communicate to create an exciting new product which will build demand for soybeans. Such products demonstrate the way that farmers are adapting to the changing agricultural marketplace, and I congratulate them on their foresight, their enthusiasm, and, of course, their accomplishment. Moreover, SoyGold is not only good for South Dakota farmers, but it also benefits us all by reducing harmful emissions.

Mr. President, there are few industries working as hard to create new products and new markets as agriculture. The South Dakota soybean growers whose efforts created SoyGold are to be commended, and I ask you to join me in congratulating them on their success.●

## DR. EUGENE SHOEMAKER

● Mr. McCAIN. Mr. President, I would like to honor the passing of one of the world's most renowned scientists. Eugene Shoemaker and his wife Carolyn, both residents of Flagstaff, AZ, were involved in a tragic car accident in Central Australia on July 18, 1997. Gene was fatally injured; Carolyn survived the accident sustaining broken ribs, a broken wrist and a dislocated shoulder. They were in the field pursuing their lifelong passion of geologic studies to help understand impact craters.

''Gene'' is credited with having almost single-handedly created planetary science as a discipline distinct from astronomy. He brought together and applied geologic principles to the mapping of planets, which resulted in more than three decades of discoveries about the planets and asteroids of our Solar System. He was the recipient of the 1992 National Medal of Science, the most prestigious scientific honor bestowed by the President of the United States, then George Bush.

As a resident of Flagstaff, AZ, Gene invented the Branch of Astrogeology within the U.S. Geological Survey and established the Field Center in Flagstaff in 1965. After retiring from the USGS in 1993, he joined Lowell Observatory in Flagstaff. The culmination of his work came in 1993 when Gene was recognized worldwide for discovering, with his wife Carolyn and colleague David Levy, a comet near Jupiter. Comet Shoemaker-Levy 9 was broken up by tidal forces from Jupiter, and fragments collided with the planet in July 1994.

Gene and his wife, Carolyn, a planetary astronomer, were a close devout couple. Their work together was recently captured in a 1997 National Geographic documentary ''Asteroids: Deadly Impact.'' As a unique team, they initiated the Palomar Planet-crossing Asteroid Survey in 1973, and the Palomar Asteroid and Comet Survey in 1983. They were the leading discovers of comets in this century.

Dr. Edward Bowell, an astronomer at Lowell Observatory in Flagstaff, AZ, said: ''Gene practically single-handedly 'invented' our knowledge of the impacts of comets and asteroids on Earth and in the solar system in general. He was a renaissance man, having one of the broadest grasps of any scientist I know, working as a geologist, training to be an astronaut, dating the surfaces of the Moon and other satellites, and helping, with his wife Carolyn, discover more interesting comets and asteroids than any other person. I am stunned to think of the store of unique knowledge that has perished with him. As a scientific colleague and friend, his guidance was unerring and will be irreplaceable.''

As Senator from the State of Arizona and chairman of the Senate Committee on Commerce, Science, and Transportation, I would like to express my sorrow on the loss of this great man and scientist. His contributions to the field of science are duly noted by myself and others in the science community.●

## ANNIE CAMPBELL, A 79–YEAR-OLD NURSE VOLUNTEER FOR MANNA MEAL

● Mr. ROCKEFELLER. Mr. President, I would like to take this moment to praise a citizen of West Virginia, Annie Campbell. Annie has recently received the J.C. Penney Golden Rule award for her outstanding volunteer community service.

Annie has been volunteering her time for Manna Meal for the past 20 years, and has seen it expand considerably. Even though she is nearing 80 years old, Annie pursues her service with confidence and generosity. She drives to pick up food at local businesses and hospitals and sometimes helps to serve the food to the people who come to Manna Meal. She loves to give a helping hand to those in need. She says, ''You feel good to know you've done something to alleviate hunger.''

Annie's life is built around helping people. She is a registered nurse at the Charleston Area Medical Center's General Division, and a leader in her church, where she is the secretary, a circle leader, on the mission committee, and on the kitchen committee. Annie is a committed woman to her community.

Manna Meal provides food for the hungry. Annie says, ''A lot of people who come to Manna Meal are not food hungry, they are companionship hungry.'' She helps with both. She provides food and friendship for those who attend the meals. Manna Meal is run by volunteers and donations. Annie has watched Manna Meal expand from a tiny soup kitchen serving 40 to large service providing for 300.

Volunteer service is vital to West Virginia and America because it is done on a personal and natural level. It is comforting to hear that there are people who willingly dedicate their lives to helping those in need. West Virginia is extremely lucky to have Annie in the State, and I am proud to make this statement regarding her award today.

The J.C. Penney Golden Rule award had several other recipients in different categories. The other local winners included Sue Meadows, Ernest Matthew Stone, and the Volunteers of PRO–KIDS. They are now going to step up to the National Golden Rule Awards, and are eligible for a $10,000 donation to their organization. All of these volunteers need to be congratulated for their effort and generosity, and I wish them luck in the next round of competition.●

## COSPONSORSHIP OF AMENDMENT 885 TO S. 955

● Mr. ABRAHAM. Mr. President, I rise today to offer my support as a cosponsor to Amendment 885 to S. 955, the Foreign Operations Appropriations Act. This amendment restores the $2.1 billion earmark for assistance to Egypt.

Ever since the signing of the Camp David Accords, Egypt has been a key ally of the United States in the Middle East. The first Arab country to make peace with Israel, Egypt has been a steadfast leader and supporter of peace in the Middle East. Indeed, I feel it is safe to say that it is because Egypt signed the peace agreement with Israel in 1979 that there has not been an Arab-Israeli War since. What is more, since 1979 both Israel and Egypt have experienced significant economic growth. Peace between these two nations has brought success and prosperity that has benefitted the entire region.

The chairman of the Subcommittee has stated his reasons for not including the earmark to Egypt in the Foreign Operations bill in either the subcommittee nor committee. He believed the relationship between Egypt and the United States has suffered over the past year. Thus, the message he wished to send to Egypt was clear disappointment with Egypt's actions and policies in connection with the stalled peace process in the Middle East.

I do not believe, however, that it is either productive or responsible to send such a message at this delicate time in the Middle East peace process. The peace process is at its most critical stage. Along with the United States, Egypt is a key player in convincing parties to that process to come back to the negotiating table. Moreover, Egypt has played a key role in securing agreements reached between Israel and Jordan and the Palestinians. It is in the best interest of the United States to keep our key allies in the Middle East engaged in a process needed to produce a just and lasting peace—a goal which will benefit America's strategic, economic and political interests.

Equally important, Egypt is a strategic ally of the United States irrespective of the peace process. We all remember how Egypt provided the leadership needed to form the American/Arab coalition that liberated Kuwait. No other country in the Arab World could have done that. Moreover, more than 35,000 Egyptian soldiers fought alongside our troops. Without access to the Suez Canal and to Egyptian airspace and facilities, supporting our troops in the Gulf would have been significantly more difficult and much more costly.

Egypt's strategic importance should not be underestimated. With the Suez Canal and its location on both the Red Sea and the Mediterranean Sea, Egypt is the gateway to Africa, the Near East and Southwest Asia. Our strategic interests in all three regions are furthered significantly by Egypt's willing cooperation.

Egypt's cooperation with our military has a global impact. As our strategic ally, Egypt routinely cooperates with our military in providing hundreds of overflight and transit rights for U.S. military logistics aircraft supporting American forces in the region. Our naval vessels travel through the Suez Canal—a practice critical to our ability to protect U.S. vital interests in the region. Without the ability to use the Suez routinely, an advantage we now enjoy, our Navy's operating costs and personnel operating requirements would soon rise to unsustainable levels.

I agree with the Chairman of the Subcommittee that foreign aid is not an entitlement. It is my sincere hope that one day in the near future Egypt will find that U.S. aid is not necessary. Signs of this are already apparent within Egypt's booming economy and burgeoning private sector. We in the United States should encourage this path of independence, growing capitalism and economic reform. But until Egypt becomes economically self-sufficient, we should continue to live up to our promises as dictated in the Camp David Accords. Any future reduction of assistance should follow consultations

and discussions with the government of Egypt. Unilateral actions will only harm relationships important to the American national interest.

In summary, Egypt has played and continues to play a key role in ensuring the success of the Middle East Peace Process. Equally important, Egypt has proven to be a staunch ally, willing to face danger to protect our shared interest in the region and to support us as our armed forces contribute to global stability. As such, I am supportive of the Committee's amendment to reinstall the earmark for assistance to Egypt.●

## INTERSTATE TRANSPORTATION AND FLOW OF SOLID WASTE

● Mr. LEVIN. Mr. President, I ask that the text of a letter from the Governors of Michigan, Ohio, New Jersey, Indiana, and Pennsylvania, to the Chairman of the House Commerce Committee be printed in the RECORD.

The Governors correctly urge the House Commerce Committee to swiftly move forward on comprehensive legislation to provide states and local governments with the authority to regulate the interstate transportation and flow of solid waste.

Mr. President, the Senate has repeatedly passed such legislation and it is my hope that we will do so again before the end of this year. The majority leadership in the House has certainly given the impression that this important matter is not a priority item, despite the pleas for help from state and local governments around the country who are besieged by out-of-state waste or find their local waste management investments becoming increasingly uneconomical. I join with the Governors in urging the House Commerce Committee and the Congress to quickly pass legislation to provide more control over solid waste planning decisions to state and local governments.

The letter follows:

JULY 9, 1997.

Hon. THOMAS J. BLILEY, Jr.,
*Chairman, The House Commerce Committee,*
*Rayburn House Office Building, Washington, DC.*

DEAR CHAIRMAN BLILEY: We are writing to urge you to move a comprehensive interstate waste and flow control bill this year. In recent conversations with Governor Voinovich, you encouraged our five states to reach an agreement on interstate waste provisions in order to move comprehensive legislation that will help both importing and exporting states.

We strongly believe that the lack of federal interstate waste and flow control legislation undermines states' abilities to implement environmentally sound waste disposal plans and to protect our own natural resources. Without federal authority to place reasonable limits on the amount of out-of-state wastes, states like Ohio, Pennsylvania, Indiana and Michigan have become dumping grounds for trash from other states. Without flow control, states like New Jersey are limited in their ability to manage effectively the disposal of municipal solid waste within their own borders, and would face an enormous financial liability.

In Pennsylvania, Indiana, Michigan and Ohio, where out-of-state waste imports are continuously and unreasonably high, citizens repeatedly ask why they should recycle in order to conserve disposal space for other states' waste. New Jersey has taken aggressive steps to try to manage all of its trash within its borders by the year 2000. New Jersey communities have acted responsibly to build disposal facilities to help meet that goal. However, if Congress fails to protect existing flow control authorities, repayment of the outstanding $1.6 billion investment will be jeopardized.

We are deeply concerned that our efforts to make responsible decisions have been undermined by federal courts, have put potentially large financial burdens on our communities and have encouraged exporting states to pass their trash problems onto the backs of others. Our citizens are making sacrifices and they need assurances that we have the tools necessary to manage our own waste and limit imports from other states so that we have the space to handle our own garbage.

You have asked our five states to try to work through regional differences on interstate waste provisiosn that would allow an interstate waste and flow control bill to move forward. Last year, importing states and New Jersey were able to quickly reach a consensus on interstate waste provisions, provided that New Jersey receives flow control authority. We respectfully resubmit that agreement and urge prompt consideration by your committee and the House.

We support this package as a fair and reasonable compromise between importing and exporting states. It provides the ability for importing states to reduce the current amount of out-of-state waste and limit future interstate waste flows. States also would be able to place reasonable restrictions on construction and demolition debris. In addition, it gives local communities the ability to decide whether or not they want to accept other states' trash. And, communities would have reasonable ability to implement flow control authorities. While this package does not include everything that we would like, we believe it is a fair package that we can support without amendments.

Unfortunately, efforts to place reasonable restrictions on out-of-state waste shipment have been perceived by some as an attempt to ban all out-of-state trash. On the contrary, importing states—like Michigan, Indiana, Ohio and Pennsylvania—are not asking for outright authority to prohibit all out-of-state waste, nor are we seeking to prohibit waste from any one state. We are asking for reasonable tools that will enable state and local governments to act responsibly to manage their own waste and limit unreasonable waste imports from other states. Such measures would give substantial authority to limit imports and plan facilities around our own states' needs.

Effective legislation is supported throughout the country. Twenty-four governors and the Western Governors' Association previously have written to you and the House leadership urging passage of effective legislation.

Thank you for your personal consideration of our agreement. We urge you to move forward with comprehensive interstate waste and flow control legislation this year.

Sincerely,

GEORGE V. VOINOVICH,
*Governor of Ohio.*
JOHN ENGLER,
*Governor of Michigan.*
TOM RIDGE,
*Governor of Pennsylvania.*
CHRISTINE TODD WHITMAN,
*Governor of New Jersey.*
FRANK O'BANNON,
*Governor of Indiana.*●

## GENETIC DISCRIMINATION

● Mr. FRIST. Mr. President, I rise today to address a critical issue that we, as a nation, must face—the fear of discrimination in health insurance practices based on our increasing ability to gather genetic information about ourselves and our families.

The tremendous advances in genetics research spawned by the Human Genome project are opening the door to a greater understanding of the underlying causes of human disease. The revolution in genetics is giving hope to millions of Americans that we will see eventual treatments, and ultimately cures, for some of the most devastating genetic diseases. Yet, our ability to predict what diseases individuals may be at risk for in the future has caused great concern that this powerful information—the information we all carry in our genes—may be used against us.

I am deeply troubled when I hear from the Tennessee Breast Cancer Coalition that genetic counselors are facing women every day who are afraid of the consequences of genetic testing. Women are avoiding genetic testing due to concerns about loss of health insurance coverage for themselves or their families—even though a genetic test might reveal that a woman is not at high risk and therefore allow her to make more informed health care choices.

As a physician and researcher, I am particularly concerned that the fear of discrimination will prevent individuals from participating in research studies or taking advantage of new genetic technologies to improve their medical care.

Scientific advances hold the promise of higher quality medical care, yet only Federal legislation can reassure the public that learning this information is safe. I was encouraged by President Clinton's recent press conference on genetic discrimination, July 14, 1997 which assisted in elevating this issue to the public's attention. While I am currently not a cosponsor of any specific legislative proposal, I am committed to developing a bipartisan legislative solution. I look forward to working with Senator JEFFORDS and my fellow colleagues on the Senate Labor and Human Resources Committee—as well as Senators MACK, SNOWE, DOMENICI, and the many other Members who have been dedicated to this issue.

In my role as chairman of the Subcommittee on Public Health and Safety, I strongly support the intent of legislation which would prohibit discrimination in health insurance against healthy individuals and their families based on their genetic information. We all carry genetic mutations that may place us at risk for future disease—therefore we are all at risk for discrimination. If I receive a genetic test which shows I am at risk for cancer, diabetes, or heart disease, should this

predictive information be used against me or my family? Particularly when I am currently healthy and, in fact, may never develop the illness? I think the American public has answered quite clearly, ''no.''

As a physician I believe in preventive medicine to avert illness for patients. Similarly, as a policymaker, I believe in ''preventive legislation'' in this case—to avert widespread discrimination by stepping in now—before genetic information is used in certain health insurance practices and before genetic technologies are used in routine medical practice.

Finally, I believe that, in order to fully address genetic discrimination, we must tackle comprehensive legislation on the confidentiality of medical records—legislation that encompasses all of our health information. We must examine who should have access to sensitive health information and to whom it should be disclosed. As this important debate continues in the 105th Congress, I am committed to ensuring that we craft legislation that protects patient confidentiality, fosters medical research, and maintains a dynamic health care system.

Only with these measures can we ensure that knowledge about our genetic heritage will be used to improve our health—and not force us to hide in fear that this information will cause us harm.

I encourage my Senate colleagues to join me in examining these issues and moving forward in the coming months on these critical pieces of legislation.●

## TRIBUTE TO CAPT. FREDRIC G. LEEDER, USN—PUBLIC AFFAIRS OFFICER

● Mr. GLENN. Mr. President, I rise today to commend Capt. Frederic G. Leeder, USN, upon his retirement from the United States Navy, after 28 years of distinguished and dedicated service to our nation.

Captain Leeder is a native son of Ohio and graduated from Ohio State University with a degree in journalism. Following his graduation from college, Captain Leeder was commissioned as an Ensign. After his graduation from the officers' program at the Defense Department's Information School, he then assumed a variety of public-affairs assignments overseas and stateside. His tours of duty included a North Atlantic Treaty Organization staff assignment and four joint-service assignments.

Most recently, Captain Leeder served as Staff Director for Public Affairs at Headquarters, Defense Logistics Agency (DLA) in Alexandria, Virginia. During his three years at DLA as principal spokesperson, Captain Leeder demonstrated unbounded stamina, keen insight, and exemplary professionalism. Possessing exceptional skill, foresight and composure, Captain Leeder dealt with representatives of the print and electronic media, engaging them on his terms. In just one example, last fall he competently worked with investigative reporters from a prominent news magazine and a major television network to ensure accuracy and fairness of nationwide reporting on a sensitive issue having significant national security implications. With his intelligent foresight and strong voice of reason, Captain Leeder, advised three different DLA directors, each from a different service I might add, on how to navigate through the often perilous waters of media and community relations

Captain Leeder succeeded in striking that delicate balance of ensuring the American public's right to know and protecting the public interest throughout his career. An accomplished communicator, he truly has earned the gratitude of thousands of military families that have found comfort and reassurance in his words when loved ones serving on distant seas and shores have been in harm's way. Captain Leeder has served his country for 28 years with valor, loyalty, and integrity, winning the personal and professional respect of all who come in contact with him. Captain Fred Leeder is a master of his craft.

On the occasion of Captain Leeder's retirement from the U.S. Navy, I offer my congratulations and thanks to this esteemed son of the Buckeye state, and wish him well in his future pursuits. ●

## TRIBUTE TO ROBERT A. STARR

● Mr. JEFFORDS. Mr. President, I rise today to pay tribute to Robert A. Starr, Chair of the Vermont House Agriculture Committee and true Vermonter. I pay this tribute in recognition of Mr. Starr's unyielding support for the Northeast Dairy Compact, which on August 20, 1997, provides the first over-order payments so desperately needed by Vermont's dairy farmers.

''Bobby'', as he is known far and wide throughout Vermont, has given lifelong public service to the Vermont agricultural community. Raised on a dairy farm during and after the Second World War, knowledge of hard times and a capacity for hard-bitten labor were ingrained in Bobby, traits which continue to distinguish the character of our hill farmers. After schooling at Vermont Technical College, Bobby followed the lead of his grandfather and became a member of the Vermont House of Representatives in 1979.

Bobby became a member of the House Agriculture Committee his first year, and has been there ever since. He became Chair in 1987, and has sponsored and provided leadership on a host of initiatives to promote the interests of Vermont agriculture. Bobby has lent his leadership to the variety of Vermont's agricultural pursuits, but it is the dairy industry which has remained at the heart of his vision. Certainly Bobby's upbringing and his strong dairy farm constituency provide the foundation of his knowledge and commitment to the interests of the State's dairy farmers. Yet his vision is broader than just his home district, and indeed has expanded beyond the boarders of Vermont to all of New England.

It is this unique expansive vision which spawned the dairy compact. Many of us in this body are intimately familiar with the dairy compact, yet few of us may know that the dairy compact was originally sponsored by Bobby Starr in the Vermont Legislature in 1989.

Few initiatives in my memory have sparked such a vigorous policy debate as the dairy compact. I am proud to have sponsored the compact on behalf of all by colleagues from the New England delegation. Adoption of the compact could not have happened without their hard work here in Congress, and without the years of dedicated work of a veritable army of compact supporters from throughout New England.

In all, the compact reflects the true spirit of commitment to our dairy farmers. The compact's first payment is a tribute to the hard work and the tireless commitment of Bobby Starr.●

## WV AMERICORPS PROJECTS

● Mr. ROCKEFELLER. Mr. President, I rise today to congratulate the West Virginia Americorps Program for their outstanding service and accomplishments. Currently, 500 Americorps members work at nearly 100 sites throughout West Virginia. Americorps programs strive to extend and promote education for children of all socioeconomic backgrounds and to fulfill basic needs, such as, food, shelter, and health care, for West Virginians. By working together with the community, the members of Americorps search for solutions to improve the quality of life and expand opportunities for individuals who are less fortunate.

Helping individuals become more independent and self-sufficient are goals of Americorps. To help people with multiple sclerosis, the West Virginia chapter of the National Multiple Sclerosis Society and Americorps members provide friendly home visits, organize peer support groups, and help them with their daily chores.

The Energy Express Americorps opens new doors and expands the possibilities for children of West Virginia. This 6-week summer learning program provides nutritious meals, a safe learning environment, and positive role models. While developing a strong relationship between students and mentors, the children improve their reading skills. With the support of the community and the involvement and attention of parents and volunteers, children's self esteem is increasing and their reading skills are improving.

Throughout the mountains of West Virginia, homes need constant care and attention. My colleagues know that floods, violent storms, and other uncontrollable factors can cause homes to deteriorate more rapidly. My State is

fortunate enough to have organizations like the Southern Appalachian Labor School, Fayette Environmentally Safe Housing, and Americorps volunteers to repair and remodel homes for low income families. With project partners and community support, West Virginia families may live in a safe, clean environment.

Another Americorps program, Project HEALTH [Health Education Associates Learning to Teach Health], encourages healthy diets and lifestyles while increasing public awareness on health issues. Through a learn and serve america higher education grant, Project HEALTH and Americorps volunteers have a profound impact on rural communities. As a result of their hard work, communities have reduced illnesses and injuries, increased immunizations for children, improved the diets for high risk individuals, and reduced the number of low birth weight babies.

While working class families struggle to find adequate child care and affordable health insurance, the cost of living rises. Parents must provide more than the basic needs for their families. However, with the aid of the Regional Family Resource Network and Americorps, these services become a reality. Immunizations, developmental screening, and after school services are available to families in Kanawha, Clay, and Boone counties in West Virginia. Preventive medicine, medical attention, and a safe environment for children after school are vital to raising healthy children.

To help victims of domestic violence, the West Virginia Coalition Against Domestic Violence provides food and shelter, legal assistance, support, and counseling. With the assistance of Americorps volunteers, there are programs in Beckley, Charleston, Elkins, Huntington, Keyser, Lewisburg, Morgantown, Sutton, Welch, Wheeling, and Williamson. Emergency hot lines, resources, and counseling services are offered by the coalition also. Educating women about the warning signals and teaching them ways to avoid violent situations can prevent abusive behavior and possibly death. In West Virginia, there are twelve shelters providing services to victims.

Finally, I'd like to thank all the volunteers and employees who dedicate their lives to public service, and I'd like to thank the community for their support and involvement in Americorps projects. Your time and effort are greatly appreciated by all. With your help, our state has been able to improve the quality of life for West Virginians and to increase the opportunities for them in the future.●

## RETIREMENT OF DR. RICHARD LESHER FROM THE U.S. CHAMBER OF COMMERCE

● Mr. BROWNBACK. Mr. President, I rise today to pay tribute to Dr. Richard Lesher the retiring president of the U.S. Chamber of Commerce. Dr. Lesher, who was chosen as president of the Chamber in 1975 as served the Chamber with both pride and dignity for over 21 years. His service to the business community will be remembered.

During his tenure, Dr. Lesher helped the Chamber's membership to grow to include 215,000 business members, 3,000 local chambers of commerce and 1,200 trade and professional organizations. His work on behalf of the business community in promoting common sense reforms and tax cuts has benefitted the entire country.

Dr. Lesher has served the business community with true integrity.

I would like to take this opportunity to wish Dr. Lesher great success in his future endeavors. I know that he will continue to contribute his time and talent to his fellow man even in his retirement.●

## SONY FEST '97

● Mrs. BOXER. Mr. President, I want to commend the Sony Technology Center as it celebrates 25 years of success and partnership in San Diego.

In honor of this milestone, Sony is holding a four-day gala, Sony Fest '97. Scheduled events include the grand opening of the Technology Center's newest building (nicknamed ''genesis''), a keynote address by Sony Corporation President Nobuyuki Idei, business and technical symposiums, even carnival activities for children and families. Sony Fest '97 promises to be quite a party!

Sony began in San Diego by constructing a color television assembly plant in 1972, making it the first Japanese electronics company to establish television production in the United States. Sony has been going full steam ahead in San Diego ever since. Today, 25 million television picture tubes, 14 million ''Made in San Diego'' televisions, and almost $500 million in capital investments later, Sony continues to explore new horizons. It now manufactures a variety of electronic products from its trademark Trinitron televisions to computer picture tubes and peripherals. In fact, Sony San Diego is currently the only U.S. manufacturer of Computer cathode ray tubes or CRTs.

Although an international company, Sony takes pride in its efforts to respond to local and national concerns. Where possible, Sony buys and sells domestically, if not locally. For example, Sony estimates that 90 percent of the materials used in its television picture tubes come from domestic sources, and that 80 percent of finished Trinitron sets manufactured in North America are sold in the U.S. Sony San Diego is also very active in the community and in the fight for more environmentally friendly business practices.

I think all in San Diego would agree: Sony is a great neighbor. For 25 years its presence has helped make San Diego a better place to live, work and conduct business. It is a pleasure to come to the Senate today and wish all involved a very enjoyable Sony Fest '97.●

## TRIBUTE TO OUTSTANDING SENATE STAFFER BYRA KITE

● Mr. THOMAS. Mr. President, I rise today to pay tribute to a man who has dedicated his time, efforts and immeasurable talents to Wyoming politics. I am speaking of Byra Kite, whom I have known and respected for many years, and have had the pleasure of having as a member of my staff since I joined the Senate in 1994.

Byra is retiring, and I would like to take this time to publicly thank him for all his hard work. He has served Wyoming well, and I am not alone in saying he is one of our State's finest sons.

In 1965, Byra came to the Cowboy State from California to play football for the University of Wyoming. During that time, he was an All-Conference and All-American member of three conference champion teams, including the undefeated 1967 Cowboy team that played in the Sugar Bowl. Later this year, that team will be inducted into the University of Wyoming Hall of Fame. Following graduation he decided to stay in Wyoming. In Laramie he found his home, and his passion for politics.

He made his first foray into the national political arena in 1976 when he managed Malcolm Wallop's initial run for the Senate. Malcolm won, defeating a three term incumbent senator, and Byra began a 20 year career of helping Wyoming Republicans shape their campaigns and win elections. His tireless work, dedication and vision broke new ground in terms of modern campaigning.

In 1977 Byra began 18 years of service as Senator Wallop's State Director. During that time he helped hundreds of Wyoming folks in their dealings with the federal government. Following Malcolm's retirement, Byra joined our staff, and continued his outstanding brand of public service to Wyoming people. He, and his talents, will truly be missed.

And so, Mr. President, I am joined by Senators Wallop, Simpson, ENZI and Representative BARBARA CUBIN—all of whom have been touched by Byra's hard work and dedication—in saying not only thank you, but good luck to a trusted advisor and friend.●

## TRIBUTE TO WALT DIBBLE

● Mr. DODD. Mr. President, for most Americans, mornings are a time of routines. People like to eat the same thing for breakfast, drink their coffee with just the right amount of cream and sugar, and duck out the door at the same time every day. Over the past 40 years, a central part of the morning routine for thousands of Connecticut

residents has been the voice of Walt Dibble reading the news over the radio. During this time of the day where so many people are rushing around, Walt Dibble's calm presence served as a soothing influence that made each morning more pleasant. Sadly, the mornings in Connecticut will never be the same, as Mr. Walt Dibble died last week at the age of 65.

A lifelong Connecticut resident, Walt Dibble was loved by all of the people in the state who listened to him. It didn't matter if they worked as a school teacher in Manchester, in the Inventory Control Division of Pratt & Whitney, or as a financial analyst in Hartford, all of Walt Dibble's listeners felt that he was a man whom they could relate to and whom they could trust.

Walt Dibble was an institution in Connecticut radio. For the past 20 years, Mr. Dibble was the voice of WTIC news in Hartford, where he was the News Director and Managing Editor. Hartford was familiar with Walt Dibble even before he came to WTIC, since he had worked for 10 years at Hartford's WDRC radio station. Before coming to Hartford, Walt had been the radio voice of the news in New Haven and Bridgeport.

Throughout his career he was always quick to pick up a microphone and hit the street to cover a breaking news story. And it was in these situations that Walt Dibble flourished. His colleagues always marveled at his ability to deliver extended live coverage of major news events without any script as a safety net. Whether it was covering the collapse of the Hartford Civic Center roof, Hurricane Gloria, or the debate over the state income tax in 1991, he always kept his cool and offered a professional news report that, in many cases, he made up as he went along.

People may have wondered why Walt Dibble always seemed more sincere than other newscasters. The reason probably stems from the fact that Walt Dibble reported the news in his own words that came from his own mind and his own heart.

Walt Dibble loved his profession, and he was a father figure for hundreds of Connecticut broadcasters. He treated the interns at the radio station with the same respect as lifelong colleagues, and he would always encourage them to embark on a career in radio. Mr. Dibble brought a similar approach to the classes he taught at the Connecticut School of Broadcasting and Southern Connecticut State University. He did not need to teach, but he did so because he wanted to pass the torch on to future broadcasters.

In this day and age where most people get their news from television, and more and more radio stations are broadcasting nationally syndicated radio shows, Walt Dibble was a throwback to an era when the radio was the place where people went to get their local news. While it will be difficult for anyone to deliver the news with the style and grace of Walt Dibble, I only hope that somebody will carry on his tradition of excellence in broadcasting to ensure that Connecticut residents will still be able to receive local news, on local radio stations, from local broadcasters whom they know and trust.

Walt Dibble lived a truly charmed life. He interviewed Presidents of the United States, he saw his son pitch in the World Series, and for more than 40 years he got to go to work to do a job that he loved. But in the end, it is the people of Connecticut who are charmed for having known this great man.●

## CELEBRATING OLDSMOBILE'S CENTENNIAL

● Mr. ABRAHAM. Mr. President, I rise to honor Oldsmobile on the occasion of its centennial anniversary. On August 20, 1997, Oldsmobile and its employees will celebrate 100 years of outstanding achievements.

Few things have become so entwined with American culture as the automobile. Since its creation, cars have fascinated us. While the ability to travel has changed drastically in the last 100 years, one tenent has remained: the desire to go further and faster.

Helping fuel this desire is Oldsmobile. This company and its workers have been central to the development of the automobile. From Ransom E. Olds' Curved Dash to today's Intrigue, Oldsmobile continues to innovate and revolutionize the industry. Every individual involved with the organization strives to create a better product. In doing so, the company has given Americans the ability to do more, to see more, and to pursue new experiences. The vision of R.E. Olds has stretched far beyond Lansing. His legacy will be forever remembered.

This celebration is especially personal for me, Mr. President. My father worked on the production line in Lansing for nearly 20 years. Oldsmobile gave my father the chance to provide for his family. During his tenure at Oldsmobile, he demonstrated to me the importance of hard work, dedication, and a pursuit of excellence; values I am proud to emulate.

Again, I extend my most heartfelt congratulations on this momentous occasion. ●

## THE ROMA RESTAURANT

● Mr. DODD. Mr. President, spring has always been known as a season of rebirth, but, sadly, the Spring of 1997 saw the passing of one of the true culinary landmarks of Washington, D.C. as the Roma Restaurant closed its doors after 77 years.

In the days since the Roma closed, the local newspapers have been filled with articles and letters to the editor paying tribute to the Washington institution. All of the writers had different memories of what made the Roma so special to them. For some it was the outdoor courtyard with the elaborate garden and grape arbor. For others it was the unique experience of dining amongst stuffed tigers, lions, and other wild game that Roma founder Frank Abbo had killed on safari. For some people it was simply the linguine with clam sauce.

But for everyone who frequented the Roma, there are fond memories of the wonderful people who worked at this restaurant and made it such an enjoyable place to spend an afternoon or an evening.

Patrons of the Roma have described members of the Abbo family, who owned and operated the Roma since it was founded in 1920, as having the biggest hearts in Washington.

While most restaurants are closed for Thanksgiving and Christmas, the Roma was always open, as the Abbos cooked countless turkeys and prepared thousands of meals over the years for unfortunate people who could not afford to buy a warm holiday meal.

The Roma was not just a business. It was more like a club where friends would meet regularly to get together and enjoy some good food and have a good time.

Whenever I dined at the Roma, it felt like going to dinner at a friend's house. In a sense, it was, since the Roma's owner, Bobby Abbo has been a friend of mine for many years. But while I know that my friendship with Bobby will persevere and I will continue to see him, I will surely miss the many friendly faces that I may no longer see now that the Roma has closed. It would be impossible for me to remember all of the people whom I befriended at the Roma. However, I would specifically like to mention Maria Amaya, Hugo Terzi, and John Squitero and thank them for the kindness that they extended toward me over the years.

In closing, I will miss the gardens, and I will miss the food. But, most important, I will miss the people that made the Roma such a special place. I wish all of them well, and I thank them for all of the wonderful memories they have provided me and so many others.●

## CONGRATULATIONS ON THE 150TH ANNIVERSARY OF CLEVELAND-CLIFFS, INC.

● Mr. ABRAHAM. Mr. President, I rise today to offer my congratulations to Mr. THOMAS Moore, CEO of Cleveland-Cliffs, Inc. and its outstanding employees on behalf of the company's 150th anniversary. I am honored to join them in celebrating this significant milestone.

For over a century now Cleveland-Cliffs has been a leader in North American mining operations and has served as a model for other companies to emulate. It comes as no surprise that this mining company has survived in a market where competition is fierce and the work extraordinarily difficult. Since 1847 when its founders first began mining iron ore in Michigan's Upper Peninsula, the company has relied upon one

basic ingredient for success—fostering good relationships with its employees and local communities.

I am particularly proud of the relationship Cleveland-Cliffs has built with the State of Michigan. The Marquette Iron Range located in the Upper Peninsula has been a tremendous boost to the area's economy and Cleveland-Cliffs has continually demonstrated its community activism by infusing funds into the surrounding area. For example, the company generously provides ''Legacy Grants'' to local organizations and schools. These charitable acts offer just one example of the many ways in which Cleveland-Cliffs cares for the local community. I applaud their efforts and encourage other companies to follow their exemplary lead.

Mr. President, this sesquicentennial celebration of Cleveland-Cliffs, Inc founding marks a remarkable achievement. I am pleased to take this opportunity to congratulate Mr. Moore and the employees of Cleveland-Cliffs on celebrating this auspicious occasion and extend my best wishes for much continued success.●

## IN RECOGNITION OF THE 50TH ANNIVERSARY OF INDIA'S INDEPENDENCE

● Mr. LEVIN. Mr. President, I rise today to pay tribute to the people of India, as they prepare to commemorate the 50th anniversary of their nation's independence from Britain. Led by Mahatma Gandhi, whose philosophy and practice of nonviolent civil disobedience was the cornerstone of the people of India's campaign, their long struggle for self-rule came to a triumphant end on August 15, 1947. The victory won by the people of India served as a model for American civil rights leaders, like Rev. Dr. Martin Luther King, Jr., and inspired oppressed and disenfranchised people throughout the world. For these and many other reasons, I am pleased to be an original cosponsor of Senate Resolution 102, which designates August 15, 1997, as ''Indian Independence Day: A National Day of Celebration of Indian and American Democracy.''

The Golden Anniversary of India's independence provides people of Indian descent with an opportunity to celebrate the immeasurable achievements they have made in their homeland and in countries throughout the world. There are vital Indian communities from China to Michigan. In fact, Michigan's Indian-American community is one of the leading ethnic groups in my home State, and its members have made important contributions to the local economy and culture. Many of Michigan's Indian-Americans are professionals who play key roles in sectors like the automotive industry and the field of medicine. Many others are entrepreneurs, and Indian-Americans in Michigan own more than 600 businesses with thousands of employees.

Indian-Americans are justifiably proud of the tremendous strides their homeland has made in the last 50 years. India is the world's largest democracy, with nearly 1 billion people. With a middle class of approximately 250 million, India is an increasingly important market for American goods. India's economy has been advancing rapidly, with a large stock market and strong high-tech enterprises like aircraft and automobile manufacturing, a computer industry, and its own space program.

Mr. President, the 50th anniversary of India's independence provides an opportunity to express our gratitude and appreciation to the Indian-American community. I know my colleagues join me in recognizing the profound contributions Indian-Americans have made to American society, and in offering congratulations to the people of India and their descendants throughout the world who are celebrating this important date in history.●

## THE 50TH ANNIVERSARY OF THE INDEPENDENCE OF INDIA

● Mr. DURBIN. Mr. President, I rise today to honor the people of India on the occasion of the fiftieth anniversary of India's independence.

Independence days, like birthdays, are for celebrating. And we have much to celebrate in United States-India relations. The friendship between the Indian and American people today is stronger and more deeply rooted than ever—deeply rooted because it is based on shared values, and strong because it is shared by more Indians and more Americans than ever before.

The friendship between the United States and India is a friendship that goes back to the beginnings of the American Nation. In fact, the first Asian Indian-American is said to have come to the United States 200 years ago.

It is a friendship that was strengthened when the United States supported Indian independence in 1947. It was strengthened again when Dr. Martin Luther King, Jr. was inspired by Mahatma Gandhi during the American civil rights movement. And it was strengthened most recently when India embarked on its bold strategy of economic openness.

It is a friendship based on mutual respect and understanding—understanding that the problems we face are mutual problems. In a shrinking world, India's challenges and India's successes are also those of the United States. Because radicalism and terrorism threaten all civilized countries, especially democracies. Because in a world economy, one nation cannot long prosper while its neighbors do not.

India and the United States stand on the threshold of a new era. In just the past few years, India has flung open its doors to the world, and emerged as a rising star on the world scene. We should commit ourselves to continue the progress of recent years.

We have a great advantage in this effort. It is the Indian-American community. Indian-Americans are the magnet that will keep India and the United States moving closer together, making our friendship worthy of the world's largest and oldest democracies.

Mr. President, I am a proud cosponsor of a resolution in the Senate designating August 15, 1997 as ''Indian Independence Day: A National Day of Celebration of Indian and American Democracy.'' This resolution reaffirms the democratic principles on which the United States and India were established, and it requests that the President issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities.

I urge my colleagues to support this resolution. And to the people of India, Indian-Americans, and all those who support the ideals of liberty and democracy, I wish you a happy independence day!●

## VOTE JUSTIFICATION—AGRICULTURE APPROPRIATIONS FISCAL YEAR 1998

● Mr. ABRAHAM. Mr. President, I rise today to explain my votes on the fiscal year 1998 appropriations bill. This legislation, which is every bit as important as the Farm bill passed by Congress in 1996, was acted upon and quickly passed last week.

The first amendment considered by the Senate was an effort by Senator DURBIN to deny crop insurance to tobacco growers. This legislation also prohibited payments for tobacco under the Non-Insured Disaster Assistance Program.

Mr. President, in fiscal year 1996, the federal government spent $69 million for net losses on tobacco crop insurance. The dangers of this commodity have become abundantly clear in recent years, and while I understand that crop insurance is an invaluable tool for today's farmers, I am troubled by the government support of a product which is responsible for thousands of deaths every year. For that reason, I voted against the motion to table the Durbin amendment. Unfortunately, the amendment was tabled on a 53–47 vote.

After this vote, the Senate turned to consideration of a Helms amendment to increase the tax on ethanol by 3 cents per gallon. The funds raised from this tax were to be set aside to fund an anti-smoking trust fund. Regardless of the ultimate destination, this account was to be funded by a substantial tax increase on fuel. At a time when Americans are already fighting to keep every dollar they earn, I refuse to support another tax increase. Therefore, I supported the motion to table the Helms amendment and it was overwhelmingly defeated by a 76–24 margin.

Shortly after disposing of the Helms amendment, a Harkin amendment to increase funding by $29 million for enforcement efforts to prevent kids from smoking was debated. The amendment would have fully funded a program

which was established to punish establishments that sell tobacco to individuals under 18 years of age. While I support efforts to curb underage smoking, this amendment sought to impose a new, $34 million dollar tax on smokers. In light of the tobacco tax increase already adopted in the budget agreement, and considering the penalties expected in the tobacco settlement, I believe Senator HARKIN's additional tax was excessive and I voted to support the 52–48 tabling vote.

The next amendment considered was a Bryan amendment to reduce the amount of funds appropriated to the Market Access Program [MAP]. Identical to the one offered on the fiscal year 1997 appropriations bill, the Bryan amendment would have eliminated funding of MAP if the aggregate amount of funds and value of commodities under the program exceeded $70,000,000. Formerly known as the Market Promotion Program, MAP has provided funding for large, lucrative corporations. I believe the Market Access Program is a clear example of corporate welfare, and I have consistently supported elimination or reduction of this unnecessary government subsidy. I supported Senator BRYAN's amendment which was tabled by a vote of 59–40.

A vote on a Grams amendment to complete a comprehensive economic evaluation of the Northeast Dairy Compact was scheduled to follow the Bryan amendment, but was instead adopted by unanimous consent. The compact allows dairy producers in the Northeast to artificially set minimum prices for dairy products within the region. I have consistently opposed the new bureaucracy established by the Compact and was pleased to be a cosponsor of the Grams amendment.

Following disposition of these three amendments, the 1998 Agriculture appropriations bill was passed, with my support, by a vote of 99–0. I urge the conferees to act quickly to finalize this legislation and once again demonstrate America s commitment to its farmers.●

## HONORING CONNECTICUT'S BLUE RIBBON SCHOOLS

● Mr. DODD. Mr. President, I rise today to pay tribute to six elementary schools from my home state of Connecticut whose achievements have earned them the honor of being named blue ribbon schools. The blue ribbon schools program was established in 1982 to honor the best elementary and secondary schools in the country. This program promotes excellence in education by providing national recognition to a diverse group of schools that display an uncommon ability to help their students to reach their potential.

These blue ribbon schools, with their varied socioeconomic, geographic, and educational needs, prove that, with the right tools, all of our schools can be successful. They display the qualities of excellence that are necessary to prepare our young children for the challenges of the next century. Their formula for success is no secret. Each has strong leadership, a sense of mission, parental involvement, high quality teaching, and high standards and high expectations for each and every student.

It is important that we make every child in this country believe in themselves, and blue ribbon schools are challenging our students to try harder and demand more from themselves.

Of the 76,000 elementary schools across the country, only 263 are honored as blue ribbon schools, and I am proud of the fact that all six nominated schools from Connecticut were chosen to be honored. These six schools from Connecticut are Ellen B. Hubble Elementary School in Bristol, Highland Elementary School in Chesire, East Farms School in Farmington, the Center School in Litchfield, the Peck Place School in Litchfield, and West District School in Unionville. Each is different and unique, but they hold in common a commitment to helping all their students achieve high standards. I would like to briefly mention some of the unique accomplishments of each of these schools.

Ellen P. Hubble School in Bristol is a center for innovation in education, where learning is fun. The school brings excitement to learning by developing building-wide themes. In the past, the school has been transformed into a farm, a forest, and a circus, and the children have responded by bringing uncommon enthusiasm to their schoolwork. The students of Ellen P. Hubble have also been very active in their community. Through the random acts of kindness and make a difference day program, students have worked on activities ranging from supporting a shelter for battered women to providing help for Bosnian refugees.

Highland Elementary School is a reflection of the town of Cheshire's dedication to provide each young person with a nurturing, motivating, and enjoyable learning environment. Highland Elementary has formed a collaborative intervention team, composed of teachers and administrators, whose role is to identify and address the complex needs of each individual student. The teachers set high standards for their students, but the results have shown that great teaching inspires active learning. In addition, Highland is a member of the national network of Partnership 2000 schools, which fosters home-school partnerships.

The East Farms School in Farmington is centered around the belief that all children are capable of becoming skillful, lifelong learners. The staff works within collaborative teams which develop an engaging inter-disciplinary curriculum. East Farms is the first school in Connecticut to establish their own publishing center. For 3 years, parents have assisted children and teachers in the publication of over 1,000 original books each year. This effort has not only brought students, parents, and teachers together in a learning exercise, it has also reinforced the value and importance of written work.

At the Center School in Litchfield, lessons are planned around student inquiry, and teachers serve as facilitators rather than lecturers. In addition, students at the Center School are taught that the best way to solve a problem is by cooperating with others, and students are instilled with a strong sense of community. The school has been at the forefront of instructional reform, and the school's thematically arranged, interdisciplinary units of instruction have been hailed as exemplary by local, state, and national educators. The Center School was the first elementary school in Connecticut to be accredited by the New England Association of Schools and Colleges, and they recently received the Connecticut Award for Excellence.

Teachers are at the center of efforts to provide children with a quality education at the Peck Place School in Orange. This school has invested in highly-qualified staff with 92 percent of the staff holding advanced degrees. Beyond an excellent traditional elementary schools curriculum, Peck Place also offers both French and Spanish to its students. Students and parents are enthusiastic partners in this effort. The Peck Place School proves a strong learning environment leads to improved performance by students. Connecticut mastery test scores have shown significant improvement in every grade, and grade four scores have jumped from 25 percent meeting or exceeding the State goals in 1993 to 74 percent in 1995.

West District School in Unionville is a true neighborhood school where nearly half of the students walk to school every day, and many of them are the children of former students. West District is committed to the belief that all students are capable of learning at a high level if you nurture each student's special strengths. West District has formed a school development council, made up of teachers, staff, and parents, to work on ways to improve the school and to develop priorities for each school year. Last year the school chose to focus its efforts on addressing the needs of low-performing students, and the school worked diligently to bridge the gap between their most successful students and those who struggle with their classwork. The results have been successful as the vast majority of students are now performing at the high levels. West District boasts some of the highest Connecticut Mastery scores in the State, with 84 percent of sixth graders and 80 percent of fourth graders reaching the excellent level on the Connecticut mastery test in math. In addition, 80 percent of sixth graders achieved excellence in reading and 75 percent of fourth graders reached the excellence level in writing.

Once again I would like to congratulate these six schools for being honored

as blue ribbon schools. I believe that they all serve as models for other schools and communities seeking to provide young students with a nurturing environment that will enable each child to develop into a life-long learner.●

## TRIBUTE TO CAPT. CARLTON A. SIMMONS, JR., USN (RET.)

● Mr. MCCAIN. Mr. President, I rise today with the sad mission of reporting the loss of a truly outstanding naval officer, Capt. Carlton A. Simmons, Jr. He passed away on July 14 after a long illness and was laid to rest at Arlington National Cemetery on July 22.

A native of North Dighton, MA, and a 1974 graduate of the University of Massachusetts at Amherst, Captain Simmons was commissioned an ensign in 1975. Following designation as a naval aviator in 1977 and qualification in the A–7E Corsair, he served with Attack Squadron 22, completing two deployments to the western Pacific.

Followon tours of duty included an exchange assignment with the Air Force, flying F–16 Falcons with the 421st Tactical Fighter Squadron; and duty as flag secretary to the commander, Middle East Force in Manama, Bahrain. Later, after training in the F/A–18 Hornet, he served with Strike Fighter Squadron 113.

A superb leader, the Navy entrusted Captain Simmons with three command assignments—the Strike Fighter Weapons School, Pacific Fleet; Strike Fighter Squadron 25; and the F/A–18 Fleet Readiness Squadron, Strike Fighter Squadron 125. While commanding officer of VFA–125, the squadron earned the Chief of Naval Operations Aviation Safety Award for surpassing 70,000 accident-free flight hours; and Personal Excellence Partnership Program awards from the Chief of Naval Operations and the State of California.

Captain Simmons also served a 22-month tenure in Washington as the Strike Warfare and Naval Aviation Programs Congressional liaison officer in the Navy Office of Legislative Affairs. In this capacity, Captain Simmons provided members of the Senate Armed Services Committee, the professional and personal staffs, and many of you, with timely support regarding Navy plans and programs. His contributions enabled Congress and the Navy to work closely in ensuring the Nation possessed a modern and capable naval force.

During his illustrious career, Captain Simmons was the recipient of many awards and commendations including the Legion of Merit, the Meritorious Service Medal with Gold Star, and the Navy Commendation Medal with Gold Star.

Mr. President, Captain Simmons, his wife Carol, and their daughters Erin and Stacey, made many sacrifices during his long career. It is indeed tragic that he has been taken from his family, the Navy, and the Nation he so selflessly served. His courage and fortitude marked him as a great patriot. He will be sorely missed.●

## TRIBUTE TO TRUMBULL, CONNECTICUT'S WE THE PEOPLE TEAM

● Mr. DODD. Mr. President, I rise today to extend my sincere congratulations to the students of Trumbull High School, who recently won an award at the ''We the People * * * The Citizen and the Constitution'' national finals in Washington, DC.

The ''We the People * * *'' program includes a comprehensive curriculum on the history and principles of American constitutional democracy. It culminates in a competition testing student teams' knowledge of the Constitution, structured as a congressional hearing with students testifying as constitutional experts. This innovative approach has received critical acclaim from educators and scholars alike, and the curriculum stands as a model for future educational programs. Students involved in the ''We the People * * *'' program not only gain an understanding of constitutional history, but many of them also show a much stronger commitment to democratic principles and feel more involved in the political process.

The students from Trumbull High School were recognized for their expertise on Unit 6 ''Role of Citizen'' of the ''We the People * * *'' curriculum. I'm very proud of their accomplishment, and would like to recognize them all by name: Katherine Baker, Scott Baker, Heather Beardsley, Annette Besso, Andrew Braverman, Meredith Bryk, Christopher Cheng, Jonathan Chin, Jessica Cohen, Vimala George, Kristy Gordon, Travis Halky, Stephen Henshaw, Ryan Leichsenring, Jennifer Liu, Devon Nykaza, Nicole Perreault, Diane Perry, Anne Rackliffe, Sophia Rountos, Rachel Simonds, and Alan Stern.

In February 1963, President John F. Kennedy said that ''the future promise of any nation can be directly measured by the present prospect of its youth.'' Frighteningly low voter turnout has recently raised concerns about public frustration with our political system. And yet, when I had the opportunity to meet with these Trumbull high schoolers, I was struck by the students' optimism and thoughtfulness about our great constitutional democracy. Their strong sense of civic responsibility provides me with great hope for our future.●

## TRIBUTE TO PVT. WALTER C. WETZEL

● Mr. ABRAHAM. Mr. President, I rise today to join the Radio Control Club of Detroit in paying tribute to Pvt. Walter C. Wetzel of the U.S. Army 13th Infantry Brigade, 8th Infantry Division. On April 3, 1945, Private Wetzel, a young squad leader with the antitank company of the 13th Infantry, was keeping watch at his platoon's command post in Birken, Germany. Early in the morning, Private Wetzel detected enemy forces moving in to attack the post. Immediately, he alerted the command post occupants and began fighting against heavy automatic weapons fire. Under cover of darkness, Germans forces moved close to the building and began throwing grenades. During the fighting, two grenades landed in the room from which Private Wetzel and the others were defending the post. With a warning to his fellow soldiers, Private Wetzel threw himself on the grenades just before they exploded.

Sadly, the heroic deed of Private Wetzel cost him his life, but in so doing he saved the lives of others in his division. His comrades were able to continue the defense of the command post while breaking the power of a dangerous German war front. Certainly, his sacrifice was in keeping with the U.S. Army's highest traditions of bravery and heroism. Private Wetzel was laid to rest at the American Battlefield Monuments Commission cemetery in the Netherlands. Shortly after his death, Private Wetzel was awarded the Congressional Medal of Honor.

In further recognition, the Radio Control Club of Detroit has constructed a monument to Private Wetzel on the grounds of Wetzel State Park in Lenox Township of Northern Macomb County. The monument consists of a concrete monolith flagpole base with a bronze plaque inlaid and inscripted. Upon dedication, the field at which the monument will be placed will be named ''Wetzel Memorial Flying Field.'' I ask the Senate to join this organization in remembering one of the many true American patriots who made the ultimate sacrifice to protect our freedom.●

## TRIBUTE TO DAVID L. CINI

● Mr. DODD. Mr. President, any town in America can find somebody to run their local government. But few cities ever have a leader whose courage, hope, and humor serve to inspire others to expect more from themselves and their community. East Lyme was fortunate enough to know one of these leaders—David L. Cini. Mr. Cini served as East Lyme's first selectman since 1989, and, sadly, he died earlier this month at the age of 60.

Eight years ago, I attended a political rally for David Cini that was held in a vacant lot behind a beauty salon in the small town of Niantic, CT, which is part of East Lyme. Also in attendance at this rally were Senator JOE LIEBERMAN, Congressman SAM GEJDENSON, and a host of other local dignitaries. Upon realizing that there were two U.S. Senators, a Congressman, and many other elected officials in attendance at this rally, I asked aloud, ''Why are all of these important people gathered behind a beauty salon

in Niantic?'' David Cini quickly stood up and responded, ''Because Niantic is the center of the universe, and I am going to be the first selectman.''

For David Cini, Niantic and East Lyme was the center of the universe, and he really loved and took pride in this town and its people. One time, David cut short a week-long vacation in Florida to come back to East Lyme. He said that East Lyme was the best place to live and work so why leave? Mr. Cini loved the city of East Lyme and his primary concern as first selectman was improving the quality of life for these people.

But while David Cini was completely committed to the people of East Lyme, he also recognized that the interests of one town are often connected to the interests of neighboring communities. He worked tirelessly to see that the towns in southeastern Connecticut worked together to preserve prosperity in the region. Mr. Cini was instrumental in the formation of the Council of Governments, which is comprised of the chief executive officers of 20 southeastern Connecticut towns, and he served as the council's first chairman.

Throughout his tenure as East Lyme's top official, Mr. Cini had to overcome various health problems, but he always maintained a positive attitude, and you never saw him without a smile on his face. David was always too concerned with the welfare of others to dwell on his own personal interests.

When you ask his friends what they will remember most about David Cini, they all mention his sense of humor. He was frequently seen joking with workers at Town Hall, and with his modest and unassuming manner, he could always make people laugh and put them at ease.

His humor will be missed in Town Hall, and so will his leadership. David Cini was known and respected by his colleagues in politics, but, more important, he was admired by the people that he was elected to represent.

He is survived by his wife Sally, seven siblings, five children, and four grandchildren. I extend my heartfelt condolences to them all.●

## CLIMATE SCIENCE

● Mr. MURKOWSKI. Mr. President, today our negotiators are gathering in Bonn, Germany to continue negotiations toward a new climate treaty, so it is appropriate to address the Senate on this issue.

My comments today will focus on the issue of science, scientific certainty, and scientific honesty.

During the Senate's debate on Friday there were some general and specific comments made about climate science that were simply wrong, and I'd like to begin by addressing some of the general misunderstandings that may exist.

First, some of our colleagues seem to have it in their minds that there is scientific certainty and consensus over the issue of whether or not human activities are causing global warming. This is simply not true.

While it is true that Undersecretary of State Tim Wirth said that ''the science is settled,'' it is clear that there is not a broad scientific consensus that human activities are causing global warming.

Don't take my own word for it:

The prestigious journal Science, in its issue of May 16th, says that climate experts are a long way from proclaiming that human activities are heating up the earth.

Even Benjamin Santer, lead author of chapter 8 of the Intergovernmental Panel on Climate Change [IPCC] report admits as much.

Here is what Dr. Santer says:

We say quite clearly that few scientists would say the attribution issue was a done deal.

Indeed, the search for the ''human fingerprint'' is far from over with many scientists saying that a clear resolution is at least a decade away.

Even the Chairman of the U.N. Intergovernmental Panel on Climate Change, Dr. Bert Bolin, says that the science is not settled. When told that Undersecretary of State Tim Wirth had said the science was settled, Dr. Bolin replied: ''I've spoken to [Tim Wirth], I know he doesn't mean it.''

Mr. President, the science is not settled. We continue to spend over $2 billion on the U.S. Global Climate Change Research Program for the simple reason that the science is not settled.

We know human activities result in carbon emissions. We also know that land-based records indicate that some warming has occurred. We do not know that one has caused the other.

Let me now turn to some specific statements that were made during the debate last Friday that simply don't agree with the latest scientific literature:

My good friend, Senator KERRY, said (on page S8118 of the CONGRESSIONAL RECORD) that the ''global average temperature has changed by less than a degree Celsius up or down for 10,000 years—[and that] the projected warming is expected to exceed any climate change that has occurred during the history of civilization.''

Unfortunately, the facts simply don't match up with Senator KERRY's statement. According to data from the Woods Hole Oceanographic Institution in Woods Hole, Massachusetts, temperatures were up to 3°C higher than present values some 2500–3000 years ago. (Reference: L. Keigwin, Science, volume 274, p. 1504–1508, 1996.)

In addition, independent studies using a different set of data indicate abrupt worldwide changes in temperature about 8000 years ago. (Reference: Stager and Mayewski, Science, volume 276, p. 1834, 1997.)

Another statement made by Senator KERRY (on page S8137 of the CONGRESSIONAL RECORD) claims that ''. . . we are living in the midst of the most significant increase that we have seen in 130 years, and the evidence of the prognosis of our best scientists is that it is going to continue at a rate that is greater than anything we have known since humankind, since civilization has existed, civilization within the last 8,000 to 10,000 years on this planet.''

Well, the facts are somewhat different. The most significant temperature increase in the last 130 years occurred between 1900 and 1940, and is generally believed to be a natural warming, a recovery from the Little Ice Age.

In pointing these facts out, it is not my contention that Senator KERRY is trying to mislead anyone. He is merely repeating some of the information that has been provided to him by his staff or others, and I know he believes them to be correct.

But they are not correct.

I believe this makes my point that there is a great deal of misunderstanding about this issue, in addition to the lack of scientific certainty I alluded to earlier.

I'd like to briefly turn my attention to a few statements made by others outside the Senate about the science of Climate Change.

When I opened the newspaper on Saturday I was amused to see the level of ''spin control'' that some were attempting with respect to the Senate's actions of Friday.

Indeed, on page A11 of Saturday's Washington Post, in an article by Helen Dewar, I read that Phillip Clapp, the President of the Environmental Information Center, said the Byrd resolution ''endorses the science on global warming . . .''

Well, I hope the public and the press will follow the wise counsel of Senator BYRD and allow the resolution to speak for itself.

Indeed, the resolution does not say anything about endorsing the science of global warming.

If it had, it would not have passed the Senate at all . . . much less than by a vote of 95–0.

Special interest groups will, I suppose, do their best to advance their special interests. But we should demand a certain level of integrity and scientific honesty in our public debate of this issue.

This brings me to the final issue that I wish to address today—the issue of scientific honesty and integrity.

As pointed out above, there is a great deal of scientific uncertainty about climate change. Well respected, highly qualified scientific experts disagree over this issue.

The hearings held before the Energy Committee, the Foreign Relations Committee, and the Environment and Public Works Committee have all featured solid, respected scientists—some of whom question the link between human activities and a warming planet.

Before the Energy and Natural Resources Committee which I chair, Dr.

Sallie Baliunas of the Harvard-Smithsonian Center for astrophysics questioned the link between human activities and climate change.

Before the Environment and Public Works Committee, Dr. Richard S. Lindzen, the Alfred P. Sloan Professor of Meteorology at the Massachusetts Institute of Technology, pointed out problems with the General Circulation Models that are the basis for the predictions of warming.

My Committee also heard from Dr. V. Ram Ramanathan of the Scripps Institute of Oceanography, about the role of water vapor as a confounding factor in these models.

In the Environment and Public Works Committee, Dr. John R. Christy of the Earth System Science Laboratory at the University of Alabama in Huntsville discussed the satellite temperature records that conflict with ground-based data.

Before the Foreign Relations Committee, Dr. Patrick Michaels, professor of Environmental Sciences at the University of Virginia, directly challenged the links between human activities and observed warming.

These are all respected scientists. They are not crackpots, nay-sayers, or as some press accounts have branded them, a ''small and noisy band of skeptics.''

Instead, they are scientists, doing what scientists do. Consistent with the scientific method, they are challenging the findings of other scientists, in an open, intellectually honest manner, using all the data and analysis that they can bring to bear.

That is how the system is supposed to work.

Unfortunately, the proponents of the view that we must take extreme actions now to address climate change have been attacking the credibility and the reputations of some scientists who do not share their view.

Instead of attacking their science, they attack the scientist.

They claim that scientists who disagree with the so-called consensus view of climate change are part of some kind of anti-science conspiracy, funded by big oil and big coal to deliberately mislead the American public.

That sounds silly, doesn't it?

Yet, on the Diane Rehm radio program which aired locally on WAMU–FM on July 21, a prominent guest made some pretty remarkable assertions. Let me quote from the transcript of this radio interview:

> . . . it's an unhappy fact that the oil companies and the coal companies in the United States have joined in a conspiracy to hire pseudo scientists to deny the facts . . . the energy companies need to be called to account because what they are doing is un-American in the most basic sense. They are compromising our future by misrepresenting the facts by suborning scientists onto their payrolls and attempting to mislead the American people.

A ''conspiracy,'' Mr. President.

''Pseudo scientists.''

''A deliberate attempt to mislead the American people.''

''Un-American.''

These are serious charges.

Who was the guest who was making these charges of a conspiracy designed to deliberately mislead the American people?

Was this guest calling Dr. Lindzen a pseudo scientist? Or Dr. Baliunas? Or any of the others I mentioned?

Are they part of this conspiracy?

Sadly, a member of the President's Cabinet—the Secretary of the Interior—was responsible for these remarks.

Here is a political appointee who appears to be making judgments about the scientific integrity of others.

Those were unfortunate remarks, Mr. President. And they are the sort of remarks I hope that the Senate will avoid as we continue the debate on climate change.

Let us keep to the high road.

Let us appreciate the fact that scientists, and indeed, all Americans, are free to disagree and to challenge the views of others in honest, public debate.

There will be disagreements. Just as I challenged the scientific understanding of Senator KERRY on several issues earlier in my remarks, others will surely challenge my understanding of the science at some point in the debate.

And in the process, we will all learn. That is the way it should be.

But there will be some, Mr. President, who will attack the scientist instead of the science.

There will be some who say that you must agree with me, or you must be part of some conspiracy that is trying to mislead the American people.

That, to use Secretary Babbitt's words, strikes me as un-American.

Let's not fear a healthy scientific debate. Instead, let's depend on it.●

## HONG KONG

● Mr. MURKOWSKI. Mr. President, 1 month ago, Hong Kong reverted to the control of the People's Republic of China, ending over 150 years of colonial rule. This was a historic and unprecedented event in Chinese history. I was honored to serve as the chairman of the official Senate delegation that attended the handover ceremonies along with several of our colleagues from the House of Representatives, led by Congressman CHRIS COX.

I hope that when I return to Hong Kong next year, and the year after, and the year after, I will witness the same optimism that I observed during the transition from British to Chinese rule. The people of Hong Kong should be congratulated for their determination to keep Hong Kong the pearl of the Orient.

During our visit, our delegation was fortunate to meet with the new chief executive, C.H. Tung, as well as his Chief Secretary, the highly respected civil servant, Anson Chan. This duo has been referred to as the dream team and the name is well deserved. It is my opinion that if C.H. Tung and Anson Chan work together they will lead Hong Kong to a brighter future. But they will face severe trials. The ''one country, two systems'' approach of the late Chairman Deng is untested, and I predict that there will be hurdles to its implementation, especially in the area of personal and political autonomy.

The purpose of the Senate Delegation to Hong Kong was to demonstrate our continued commitment to support the people of Hong Kong and to protect United States interests. And Congress will continue to monitor events in Hong Kong.

The key events that I think will determine whether this experiment will work are the following:

Whether the elections C.H. Tung has called for May of 1998 are free and fair and allow broad participation.

Whether the Court of Final Appeal functions as the final word, or whether the PRC People's Congress uses the fig leaf of ''national security'' to step in and usurp Hong Kong's legal system.

How the PRC Government handles Martin Lee, and other democrats. Thus far, democratic protests have continued without intervention.

What happens to the first paper to publish a Pro-Taiwan or Pro-Tibet editorial.

Whether Chief Secretary Anson Chan stays in her post after 1998, and whether there is an exodus of other civil servants.

But I also urge restraint by my colleagues. We should not assume the worst for Hong Kong. Specifically, we should not alter trade laws that assume that Hong Kong cannot enforce her borders and her laws. If Hong Kong cannot live up to her commitments in this regard, then the United States should act, but we should not act prematurely.

In conclusion, Mr. President, I would like to extend my commitment to the people of Hong Kong to support their efforts. I hope on my next trip to Hong Kong I can say that Hong Kong remains the vibrant, successful, energetic engine of Asia.●

## NIH RESEARCH ON CHILD ABUSE AND NEGLECT: CURRENT STATUS AND FUTURE PLANS

● Mr. JEFFORDS. Mr. President, I rise today to bring to your attention an important report on child abuse and neglect. This report, released in April of this year, examines current research being conducted or supported by the National Institutes of Health [NIH] into the area of child abuse and neglect. The report proposes groundbreaking recommendations for improving the coordination of child maltreatment research across the NIH, with other divisions within the Department of Health and Human Services, and with other federal agencies. In addition, the report addresses the current gaps in research, identified in the National Research Council's 1993 report,

''Understanding Child Abuse and Neglect.'' The April, 1997, report by NIH emphasizes the need to provide more attention to training new research in the field and disseminating research results to the agencies and practitioners who are working on the frontlines.

We are all concerned about the prevalence of child abuse and neglect. According to a 1995 state-by-state survey conducted by the National Committee to Prevent Child Abuse, over 3.1 million children were reported to be abused or neglected. Child abuse fatalities have increased by 39 percent from 1985 to 1995. The Department of Health and Human Services Third National Incidence Study of Child Abuse and Neglect, released in September, 1996, estimated that the number of child abuse and neglect cases in this country doubled between 1986 and 1993.

One critical and necessary step to stop child maltreatment is to support research that will enhance our understanding of the underlying causes of child abuse and neglect. This research also will improve our ability to identify and define abuse and neglect, and discover which intervention techniques are most successful in preventing and treating child maltreatment.

The proposals for future NIH activities contained in the report give new meaning to the concept of knowledge translation and research application. The most important characteristic of the proposals are the efforts to move scientific knowledge from the research lab and demonstration site into professional practice. Parents, child welfare agencies, and practitioners will all benefit from this information and technology transfer. In the exchange, NIH researchers will benefit from the lessons learned by practitioners and be better able to target their research. Everyone will benefit from the increased coordination that is integral to the NIH effort. But most important, fewer children will suffer from abuse and neglect, once marriage between the research and practice is accomplished. This is a goal upon which we can all agree.

I want to commend Dr. Harold Varmus, Director of NIH, for his leadership in this critical area. Under the direction of Dr. Varmus, Dr. Peter Jensen, Chief-Child and Adolescent Disorders Branch, at the National Institutes of Mental Health established a trans-NIH Working Group on child abuse and neglect. I would also like to thank the organizations which brought this issue to my attention and encouraged the formation of the Working Group—the National Association of Social Workers, National Child Abuse Coalition, Institute for the Advancement of Social Work Research, and the American Psychological Society.

The Working Group has developed a bold plan for advancing research on child abuse and neglect, as evidenced by the April, 1997 report. This plan will make the optimal use of federal dollars though better coordination of NIH research activities and dissemination of research results to those who can make a difference in children's lives.●

## NATIONAL EDUCATION CENTER FOR WOMEN IN BUSINESS

● Mr. SANTORUM. Mr. President, I would like to engage the Chairman of the Subcommittee on Commerce, Justice, State Appropriations in a brief colloquy concerning funding for the National Education Center for Women in Business at Seton Hill College.

Mr. President, in the decade between 1982 and 1992, women-owned businesses grew substantially, increasing by over 55 percent between 1987 and 1992 alone. The Commonwealth of Pennsylvania's women business owners helped make this happen, as my state ranks sixth in the nation in the number of firms owned by women. These firms contributed over 290,000 jobs to my state's economy. The Center conducts collaborative research, provides educational programs and curriculum development, and serves as a information clearinghouse for women entrepreneurs. I have heard only good things about the Center's work in the promotion of women business ownership, both in the Commonwealth and across the nation.

Mr. SPECTER. Mr. President, I must echo the comments of my colleague from Pennsylvania with respect to the National Education Center for Women in Business, which provides invaluable services to women from all over this country to encourage the establishment and growth of businesses. The Center's programs are truly in the national interest and as a member of the Appropriations Committee I have been pleased to work with my colleague, Senator SANTORUM, and Congressman MASCARA in support of the Center and its funding needs. The federal funds we have sought are necessary to bring the Center to a position of self-sufficiency where it can operate solely with private funds in the future.

Mr. SANTORUM. The Center has received funds in five previous Commerce-State-Justice appropriations bills through the Small Business Administration's Office of Women's Business Ownership and, as originally envisioned, it was to receive $5 million in federal funds over five years. The fiscal year 1997 appropriations bill for the SBA included $500,000 for the Center, which leaves $500,000 in federal funds that are needed to complete the total $5 million federal contribution to the establishment of the Center. I understand that the Small Business Administration would generally continue the program through the next cycle, even though it is not specifically listed in the bill, as the Center has been successful in its mission on behalf of women in business. Would the distinguished Chairman of the Subcommittee be willing to work with Senator SPECTER and me to examine options for allocating funds for the National Education Center for Women in Business?

Mr. GREGG. Mr. President, I thank the Senators from Pennsylvania for highlighting the work of this program and its funding history. Since the Small Business Administration funded the program in fiscal year 1997, I assume they will wish to continue funding in fiscal year 1998 for the Center. The absence of report language should not prevent the agency from providing funding in the next fiscal year.●

## CHRIS YODER

● Mr. MURKOWSKI. Mr. President, I want to take a moment of the Senate's time to speak today about a man whose life has been dedicated to public service—in particular, service to America's veterans: Chris Yoder.

Many of my colleagues know Chris. He has spent his entire career working for veterans. And now, Chris has decided to leave the Senate Committee on Veterans' Affairs [VA]. However, his life-long commitment to veterans will continue as he moves to the Commission on Service Members and Veterans' Transition Assistance.

I have known Chris for many years, and I have come to rely on him for his expertise.

He served in Vietnam and after he returned home, he began his career with the Veterans' Administration in 1972. He joined the Senate Committee on Veterans' Affairs in 1985 when I served as the Committee Chairman. Chris immediately demonstrated a remarkable recall and uncanny knowledge of veterans' issues. In 1991, Chris joined Tony Principi when Tony went to work for the Bush Administration as Deputy Secretary for the Department of Veterans' Affairs. In 1993, when I served as Vice Chairman of the Committee, Chris returned.

Over the years, I have asked Chris to examine a number of veterans' programs and I have always expected Chris to ask tough questions about these programs. We spend billions of dollars on veterans' health care and benefits, and members of the Senate Veterans' Affairs Committee constantly struggle to ensure that the money is spent efficiently and in an equitable manner.

Is the veterans' health care program based on the most modern medical delivery systems, or are we sticking with an aging infrastructure that is consuming dollars that need to be redirected to meet the real needs of veterans? That's the type of issue that Chris has had to tackle.

Last Congress, we passed Veterans' Health Care Eligibility Reform. If you think the tax code is complicated, you should have seen the VA's health care eligibility criteria before our reforms. It confused veterans, it confused Congress, and it even confused VA doctors and administrators.

Chris took it upon himself to play the leading role in crafting a reform proposal that simplified the criteria without sacrificing the quality and access to care for our Nation's veterans.

By far, this was the most important veterans' legislation passed in the 104th Congress, and one of the most difficult and complex issues I have witnessed during my 17-year tenure as a U.S. Senator.

I do not think anyone can doubt the commitment and dedication Chris has for our veterans, and I know every member of the Senate Committee on Veterans' Affairs will miss his dedication and expertise.

He is a man with the courage to tackle the difficult questions and the knowledge to find the answers. Chris Yoder will be sorely missed on the Veterans' Affairs Committee. As a friend, I wish him the best of the luck.●

## TRIBUTE TO HAROLD ''PRINCE HAL'' NEWHOUSER

● Mr. ABRAHAM. Mr. President, I rise today to pay tribute to one of Michigan's greatest athletes in America's greatest pastime. Baseball was Harold ''Prince Hal'' Newhouser's life, and it showed every minute during the 15 years he was on the field, proudly wearing the Detroit Tigers jersey number 16. Rising to prominence during a time when athletes played for the love of the sport, Harold's story represents a fine example of the American ethic of hard work and determination.

At 14 years old, Harold listened intently to the announcer as Goose Goslin drove in the series winning run, giving the Detroit Tigers the 1935 pennant. Harold was so excited about the victory he decided his life's goal was to play for his hometown Tigers. Four months after his eighteenth birthday, as he stepped on the mound for the first time, Harold's dream came true.

Harold Newhouser was born to play baseball. Just a few years after he began pitching for the Tigers, Harold reached the coveted twenty wins in one season. In 1942, Harold was named to the All-Star team. In 1944, he earned the American League's Most Valuable Player award, and won it again the very next year. This occasion marked the only time in history a major league picture won the MVP award in back-to-back seasons.

By the time Harold Newhouser retired in 1955, he had played in six All-Star Games, won two MVP's, and earned recognition as a strikeout king with a blazing fastball. In 1992, his achievements were formally recognized through his induction into the Hall of Fame. As Harold is proud to point out, he is the first Detroit-born player to go into the Hall of Fame, and he's the first Detroit-born player to have his uniform number retired by the Tigers.

And that occasion, Mr. President, is what I rise today to commemorate. Harold was born in Detroit, grew up in Detroit, and played baseball for Detroit. This Sunday the Tigers will bestow upon him their highest honor, and on behalf of Michigan, I would like to recognize his accomplishments in the RECORD, and to thank him for his outstanding representation of Michigan throughout his life, both on and off the field.●

# *Daily Digest*

HIGHLIGHTS

Senate agreed to Budget Reconciliation and Revenue Reconciliation Conference Reports.

House agreed to the Conference report on H.R. 2014, the Taxpayer Relief Act of 1997. (H. Rept. 105–220).

House Committee ordered reported the Treasury, Postal Service, and General Government appropriations for fiscal year 1998.

# Senate

## *Chamber Action*

*Routine Proceedings, pages S8385–S8629*

Measures Introduced: Forty-Five bills and nine resolutions were introduced, as follows: S. 1094–1138, S. Res. 111–116, and S. Con. Res. 47–49.

**Pages S8531–33**

Measures Reported: Reports were made as follows:

S. 399, to amend the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 to establish the United States Institute for Environmental Conflict Resolution to conduct environmental conflict resolution and training, with an amendment in the nature of a substitute. (S. Rept. No. 105–60)

S. 414, to amend the Shipping Act of 1984 to encourage competition in international shipping and growth of United States imports and exports, with an amendment in the nature of a substitute. (S. Rept. No. 105–61)

S. Res. 110, A bill to permit an individual with a disability with access to the Senate floor to bring necessary supporting aids and services. **Page S8531**

Measures Passed:

*Oklahoma City National Memorial:* Senate passed S. 871, to establish the Oklahoma City National Memorial as a unit of the National Park System; to designate the Oklahoma City Memorial Trust. **Pages S8410–15**

*Congressional Adjournment:* Senate agreed to H. Con. Res. 136, providing for an adjournment of the House of Representatives and the Senate. **Page S8481**

*Waiving Enrollment Requirements:* Senate passed H.J. Res. 90, waiving certain enrollment requirements with respect to two specified bills of the One Hundred Fifth Congress, clearing the measure for the President. **Page S8482**

*Enrollment Correction:* Senate agreed to H. Con. Res. 138, to correct technical errors in the enrollment of the bill H.R. 2014. **Page S8482**

*Kennedy Center Parking Improvement Act:* Senate passed S. 797, to amend the John F. Kennedy Center Act to authorize the design and construction of additions to the parking garage and certain site improvements, after agreeing to the following amendments proposed thereto: **Pages S8506–11**

Domenici (for Chafee) Amendment No. 1048, of a technical nature. **Pages S8506–11**

Domenici/Bingaman Amendment No. 1049, to provide for the design, construction, furnishing, and equipping of a Center for Performing Arts within the complex known as the New Mexico Hispanic Cultural Center. **Pages S8506–11**

Domenici (for Graham/Mack) Amendment No. 1050, to provide for the design, construction, furnishing and equipping of a Center for Historically Black Heritage within Florida A&M University. **Pages S8506–11**

Domenici (for Chafee) Amendment No. 1051, to provide for the relocation and expansion of the Haffenreffer Museum of Anthropology at Brown University in Providence, Rhode Island. **Pages S8506–11**

Domenici (for Chafee) Amendment No. 1052, to provide for a grant to Juniata College for the construction of environmental research facilities and structures at Raystown Lake, Pennsylvania. **Pages S8506–11**

Domenici (for Baucus) Amendment No. 1053, to provide for the design, construction, furnishing, and equipping of an historical, cultural and paleontological interpretive center and museum to be located at Fort Peck Dam, Montana. **Pages S8506–11**

*President Pro Tempore Consultant:* Senate passed S. 1120, to provide for a consultant for the President pro tempore. **Page S8524**

*Earthquake Hazards Reduction Act Authorization:* Senate passed S. 910, to authorize appropriations for carrying out the Earthquake Hazards Reduction Act of 1977 for fiscal years 1998 and 1999, after agreeing to a committee amendment in the nature of a substitute, and the following amendment proposed thereto: **Pages S8524–26**

Warner (for Frist) Amendment No. 1054, to increase the authorization for the United States Geological Survey for 1998 and 1999. **Page S8526**

*Grants Pass, Oregon Land Conveyance:* Senate passed H.R. 1198, to direct the Secretary of the Interior to convey certain land to the City of Grants Pass, Oregon, clearing the measure for the President. **Page S8526**

*Oregon Land Exchange:* Senate passed H.R. 1944, to provide for a land exchange involving the Warner Canyon Ski Area and other land in the State of Oregon, clearing the measure for the President. **Pages S8526–27**

*Senate Floor Disability Access:* Senate agreed to S. Res. 110, to permit an individual with a disability with access to the Senate floor to bring necessary supporting aids and services. **Page S8527**

*Private Relief:* Senate passed H.R. 584, for the relief of John Wesley Davis, clearing the measure for the President. **Page S8527**

*Indian Independence Day:* Committee on the Judiciary was discharged from further consideration of S. Res. 102, designating August 15, 1997, as ''Indian Independence Day: A National Day of Celebration of Indian and American Democracy,'' and the resolution was then agreed to. **Pages S8527–28**

*U.S. District Courts Authorization:* Committee on the Judiciary was discharged from further consideration of S. 996, to provide for the authorization of appropriations in each fiscal year for arbitration in United States district courts, and the bill was then passed, after agreeing to the following amendment proposed thereto: **Page S8528**

Warner (for Biden) Amendment No. 1055, to provide for the reauthorization of report requirements to enhance judicial information dissemination. **Page S8528**

Budget Reconciliation Conference Report: By 85 yeas to 15 nays (Vote No. 209), Senate agreed to the conference report on H.R. 2015, to provide for reconciliation pursuant to subsections (b)(1) and (c) of section 105 of the concurrent resolution on the budget for fiscal year 1998. **Pages S8386–S8410**

Revenue Reconciliation-Conference Report: By 92 yeas to 8 nays (Vote No. 211), Senate agreed to the conference report on H.R. 2014, to provide for reconciliation pursuant to subsections (b)(2) and (d) of section 105 of the concurrent resolution on the budget for fiscal year 1998. **Pages S8410, S8415–61, S8465–80**

During consideration of this measure today, Senate also took the following action:

By 78 yeas to 22 nays (Vote No. 210), three-fifths of those Senators duly chosen and sworn having voted in the affirmative, Senate agreed to waive points of order against the Congressional Budget Act with respect to consideration of the conference report. Subsequently, a point of order that section 1604(f)(3) of the bill violates section 313(b)(1)(A) of the Congressional Budget Act was not sustained, and the point of order thus fell. **Pages S8450–51**

Agriculture Appropriations—Agreement: A unanimous-consent time agreement was reached providing for the consideration of H.R. 2160, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1998, on Tuesday, September 2, 1997, with one amendment to be proposed thereto. **Page S8482**

A further consent agreement was reached providing that on Wednesday, September 3, 1997, prior to third reading of the bill, all after the enacting clause be stricken and the text of S. 1033, Senate companion measure, as passed by the Senate on July 24, 1997, be inserted in lieu thereof, the bill be read the third time and agreed to, the Senate insist on its amendment, request a conference with the House thereon, and the Chair be authorized to appoint conferees on the part of the Senate. **Page S8482**

Labor/HHS Appropriations—Agreement: A unanimous-consent agreement was reached providing for the consideration of S. 1061, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1998, on Tuesday, September 2, 1998. **Page S8461**

Authority for Committees: All committees were authorized to file executive and legislative reports during the adjournment of the Senate on Tuesday, August 19, 1997, from 11 a.m. to 2 p.m. **Page S8524**

Removal of Injunction of Secrecy: The injunction of secrecy was removed from the following treaties:

Extradition Treaty with Barbados (Treaty Doc. 105-20); and

Extradition Treaty with Trinidad and Tobago (Treaty Doc. 105-21).

The treaties were transmitted to the Senate today, considered as having been read for the first time, and referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed. **Page S8523**

Appointments:

*Global Climate Change Observer Group:* Pursuant to the provisions of S.Res. 98, agreed to on July 25, 1997, the following Senators were appointed to the Global Climate Change Observer Group: Senators Hagel, Chairman, Abraham, Chafee, Craig, Murkowski, Roberts, Byrd, Co-Chairman, Baucus, Bingaman, Kerry, Levin, and Lieberman. **Pages S8523–24**

*Commission on Security and Cooperation in Europe:* The Chair, on behalf of the Vice President, pursuant to Public Law 94-304, as amended by Public Law 99-7, appointed the following Senators to the Commission on Security and Cooperation in Europe: Senators Feingold, Graham, Lautenberg, and Reid. **Pages S8523–24**

Messages from the President: Senate received the following messages from the President of the United States: A communication from the President of the United States, transmitting, a report of the notice of the continuation of Iraqi emergency; referred to the Committee on Banking, Housing and UrbanAffairs. (PM-58). **Page S8528**

A communication from the President of the United States, transmitting, a report concerning the national emergency with respect to Iraq; referred to the Committee on Banking, Housing and Urban Affairs. (PM-59). **Pages S8528–30**

Nominations Confirmed: Senate confirmed the following nominations:

Eric L. Clay, of Michigan, to be United States Circuit Judge for the Sixth Circuit.

Arthur Gajarsa, of Maryland, to be United States Circuit Judge for the Federal Circuit.

Thomas W. Thrash, Jr., of Georgia, to be United States District Judge for the Northern District of Georgia.

Jose-Marie Griffiths, of Tennessee, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2001.

Mary Ann Gooden Terrell, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

Robert S. LaRussa, of Maryland, to be an Assistant Secretary of Commerce.

James H. Atkins, of Arkansas, to be a Member of the Federal Retirement Thrift Investment Board for a term expiring September 25, 2000.

Calvin D. Buchanan, of Mississippi, to be United States Attorney for the Northern District of Mississippi for the term of four years.

Linda Jane Zack Tarr-Whelan, of Virginia, for the rank of Ambassador during her tenure of service as United States Representative to the Commission on the Status of Women of the Economic and Social Council of the United Nations.

Yerker Andersson, of Maryland, to be a Member of the National Council on Disability for a term expiring September 17, 1999.

Gina McDonald, of Kansas, to be a Member of the National Council on Disability for a term expiring September 17, 1998.

Bonnie O'Day, of Minnesota, to be a Member of the National Council on Disability for a term expiring September 17, 1998.

Edward William Gnehm, Jr., of Georgia, to be Director General of the Foreign Service.

Richard Sklar, of California, to be Representative of the United States of America to the United Nations for UN Management and Reform, with the Rank of Ambassador.

A. Peter Burleigh, of California, to be the Deputy Representative of the United States of America to the United Nations, with the rank and status of Ambassador Extraordinary and Plenipotentiary.

James W. Pardew, Jr., of Virginia, for the Rank of Ambassador during his tenure of service as U.S. Special Representative for Military Stabilization in the Balkans.

Stanley O. Roth, of Virginia, to be an Assistant Secretary of State.

Marc Grossman, of Virginia, to be an Assistant Secretary of State.

John Christian Kornblum, of Michigan, to be Ambassador to the Federal Republic of Germany.

David J. Scheffer, of Virginia, to be Ambassador at Large for War Crimes Issues.

James P. Rubin, of New York, to be an Assistant Secretary of State.

Paul Simon, of Illinois, to be a Member of the National Institute for Literacy Advisory Board for a term expiring September 22, 1998.

Bonnie R. Cohen, of District of Columbia, to be an Under Secretary of State.

James Franklin Collins, of Illinois, to be Ambassador to the Russian Federation.

Janice R. Lachance, of Virginia, to be Deputy Director of the Office of Personnel Management

Patrick A. Shea, of Utah, to be Director of the Bureau of Land Management.

George A. Omas, of Mississippi, to be a Commissioner of the Postal Rate Commission for a term expiring October 14, 2000.

Jane Garvey, of Massachusetts, to be Administrator of the Federal Aviation Administration for the term of five years.

Karl Frederick Inderfurth, of North Carolina, to be Assistant Secretary of State for South Asian Affairs.

David Andrews, of California, to be Legal Adviser of the Department of State.

Ralph Frank, of Washington, to be Ambassador to the Kingdom of Nepal.

John C. Holzman, of Hawaii, to be Ambassador to the People's Republic of Bangladesh.

Shirley Robinson Watkins, of Arkansas, to be Under Secretary of Agriculture for Food, Nutrition, and Consumer Services.

Louis Caldera, of California, to be a Managing Director of the Corporation for National and Community Service.

Rudy deLeon, of California, to be Under Secretary of Defense for Personnel and Readiness.

Robert G. Stanton, of Virginia, to be Director of the National Park Service.

Catherine E. Woteki, of the District of Columbia, to be Under Secretary of Agriculture for Food Safety.

Kneeland C. Youngblood, of Texas, to be a Member of the Board of Directors of the United States Enrichment Corporation for a term expiring February 24, 2002.

Wendy Ruth Sherman, of Maryland, to be Counselor of the Department of State, and to have the rank of Ambassador during her tenure of service.

Gordon D. Giffin, of Georgia, to be Ambassador to Canada.

Maura Harty, of Florida, to be Ambassador to the Republic of Paraguay.

James F. Mack, of Virginia, to be Ambassador to the Co-operative Republic of Guyana.

Anne Marie Sigmund, of the District of Columbia, to be Ambassador to the Kyrgyz Republic.

Keith C. Smith, of California, to be Ambassador to the Republic of Lithuania.

Daniel V. Speckhard, of Wisconsin, to be Ambassador to the Republic of Belarus.

George Munoz, of Illinois, to be President of the Overseas Private Investment Corporation.

Richard Dale Kauzlarich, of Virginia, to be Ambassador to the Republic of Bosnia and Herzegovina.

Jamie Rappaport Clark, of Maryland, to be Director of the United States Fish and Wildlife Service.

I. Miley Gonzalez, of New Mexico, to be Under Secretary of Agriculture for Research, Education, and Economics.

August Schumacher, Jr., of Massachusetts, to be Under Secretary of Agriculture for Farm and Foreign Agricultural Services.

Kathleen M. Karpan, of Wyoming, to be Director of the Office of Surface Mining Reclamation and Enforcement.

August Schumacher, Jr., of Massachusetts, to be a Member of the Board of Directors of the Commodity Credit Corporation.

Shirley Robinson Watkins, of Arkansas, to be a Member of the Board of Directors of the Commodity Credit Corporation.

Thomas E. Scott, of Florida, to be United States Attorney for the Southern District of Florida for the term of four years.

Felix George Rohatyn, of New York, to be Ambassador to France.

Philip Lader, of South Carolina, to be Ambassador to the United Kingdom of Great Britain and Northern Ireland.

1 Air Force nomination in the rank of general.

1 Army nomination in the rank of general.

1 Marine Corps nomination in the rank of general.

Routine lists in the Foreign Service.

**Pages S8462–63, S8516–23**

Nominations Received: Senate received the following nominations:

Jo Ann Jay Howard, of Texas, to be Federal Insurance Administrator, Federal Emergency Management Agency.

Paul M. Igasaki, of California, to be a Member of the Equal Employment Opportunity Commission for a term expiring July 1, 2002.

Tadd Johnson, of Minnesota, to be Chairman of the National Indian Gaming Commission for the term of three years.

Ernest J. Moniz, of Massachusetts, to be Under Secretary of Energy.

A. Richard Caputo, of Pennsylvania, to be United States District Judge for the Middle District of Pennsylvania.

G. Patrick Murphy, of Illinois, to be United States District Judge for the Southern District of Illinois.

Carlos R. Moreno, of California, to be United States District Judge for the Central District of California.

Michael P. McCuskey, of Illinois, to be United States District Judge for the Central District of Illinois.

Victoria A. Roberts, of Michigan, to be United States District Judge for the Eastern District of Michigan.

Frederica A. Massiah-Jackson, of Pennsylvania, to be United States District Judge for the Eastern District of Pennsylvania.

Bruce C. Kauffman, of Pennsylvania, to be United States District Judge for the Eastern District of Pennsylvania.

John H. Bingler, Jr., of Pennsylvania, to be United States District Judge for the Western District of Pennsylvania.

James S. Gwin, of Ohio, to be United States District Judge for the Northern District of Ohio.

Jeffrey D. Colman, of Illinois, to be United States District Judge for the Northern District of Illinois.

Rebecca R. Pallmeyer, of Illinois, to be United States District Judge for the Northern District of Illinois.

Dan A. Polster, of Ohio, to be United States District Judge for the Northern District of Ohio.

Algenon L. Marbley, of Ohio, to be United States District Judge for the Southern District of Ohio.

John E. Mansfield, of Virginia, to be a Member of the Defense Nuclear Facilities Safety Board for a term expiring October 18, 2001.

George Edward Moose, of Maryland, to be Representative of the United States of America to the European Office of the United Nations, with the rank of Ambassador.

Nancy Dorn, of the District of Columbia, to be Member of the Board of Directors of the Inter-American Foundation for a term expiring June 26, 2002.

Hershel Wayne Gober, of Arkansas, to be Secretary of Veterans Affairs.

Dennis Dollar, of Mississippi, to be a Member of the National Credit Union Administration Board for a term expiring April 10, 2003.

Michael K. Powell, of Virginia, to be a Member of the Federal Communications Commission for a term of five years from July 1, 1997.

1 Air Force nomination in the rank of general.

1 Navy nomination in the rank of admiral.

Routine lists in the Air Force, Army.

Pages S8461–62

Messages From the President: Pages S8528–30

Messages From the House: Page S8530

Communications: Pages S8530–31

Executive Reports of Committees: Page S8531

Statements on Introduced Bills: Pages S8533–S8607

Additional Cosponsors: Pages S8607–08

Amendments Submitted: Pages S8612–15

Notices of Hearings: Page S8615

Authority for Committees: Page S8615

Additional Statements: Page S8615

Record Votes: Three record votes were taken today. (Total—211) Pages S8410, S8451, S8480

Adjournment: Senate convened at 9:15 a.m. and, in accordance with H. Con. Res. 136, adjourned at 8 p.m., until 11 a.m., on Tuesday, September 2, 1997.

# *Committee Meetings*

*(Committees not listed did not meet)*

## FOOD SECURITY IN AFRICA

*Committee on Agriculture, Nutrition, and Forestry:* Committee concluded hearings on proposed legislation to enhance African food security and increase U.S. exports by stimulating a new trade and development relationship between the United States and Africa, and on provisions of S. 778, to authorize a new trade and investment policy for sub-Saharan African countries, after receiving testimony from Lawrence H. Summers, Deputy Secretary of the Treasury; Derek Hanekom, South Africa Minister of Agriculture and Land Affairs, Pretoria; Edith G. Ssempala, Republic of Uganda Ambassador to the United States; Norman E. Borlaug, Sasakawa-Global 2000, Mexico City, Mexico; Ernie Micek, Cargill, Incorporated, Minneapolis, Minnesota; and Joseph C. Kennedy, AFRICARE, Washington, D.C.

## EXPORT-IMPORT BANK

*Committee on Banking, Housing, and Urban Affairs:* Committee ordered favorably reported S. 1026, authorizing funds for the Export-Import Bank of the United States, with amendments.

## NATIONAL PARKS OVERFLIGHTS

*Committee on Commerce, Science, and Transportation:* Committee held hearings on S. 268, to promote air safety and restore or preserve natural quiet in national parks by establishing minimum flight altitudes and prohibiting overflights below such minimum altitudes in any national park, receiving testimony from Senators Akaka and Allard; Representatives Mink and Gibbons; Louise E. Maillett, Acting Administrator for Policy, Planning and International Aviation, Federal Aviation Administration, Department of Transportation; Destry Jarvis, Assistant Director, External Affairs, National Park Service, Department of the Interior; Tom Robinson, Grand Canyon Trust, Flagstaff, Arizona; Phil Pearl, National Parks and Conservation Association, Washington, D.C.; James Petty, Air Vegas Airlines, Henderson, Nevada, on behalf of the United States Air Tour Association and the Grand Canyon Air Tour Council; Richard L. Larew, Era Aviation, Inc., Anchorage, Alaska; and Frank L. Jensen, Jr., Helicopter Association International, Alexandria, Virginia.

Hearings were recessed subject to call.

## FOREST SERVICE ALASKA REGION

*Committee on Energy and Natural Resources:* Committee held oversight hearings to examine the organizational structure, staffing, and budget for implementation of the Tongass Land Management Plan and the management of programs under the jurisdiction of the Alaska region of the Forest Service, receiving testimony from Ronald E. Stewart, Acting Associate Chief, and Phil Janik, Regional Forester (Juneau, Alaska), both of the Forest Service, Department of Agriculture.

Hearings were recessed subject to call.

## NOMINATIONS

*Committee on Governmental Affairs:* Committee ordered favorably reported the nominations of James H. Atkins, of Arkansas, to be a Member of the Federal Retirement Thrift Investment Board, Janice R. Lachance, of Virginia, to be Deputy Director of the Office of Personnel Management, and George A. Omas, of Mississippi, to be a Commissioner of the Postal Rate Commission.

## CAMPAIGN FINANCING INVESTIGATION

*Committee on Governmental Affairs:* Committee continued hearings to examine certain matters with regard to the committee's special investigation on campaign financing, receiving testimony from Terry Lenzner and Loren Berger, both of the Investigative Group, Incorporated, Washington, D.C.; and Zhi Hua Dong, Ching Hai Meditation Society, Brooklyn, New York.

Hearings were recessed subject to call.

## BUSINESS MEETING

*Committee on the Judiciary:* Committee ordered favorably reported the following business items:

S. 53, to require the general application of the antitrust laws to major league baseball, with an amendment in the nature of a substitute; and

The nominations of Frank M. Hull, of Georgia, to be United States Circuit Judge for the Eleventh Circuit, Robert Charles Chambers, to be United States District Judge for the Southern District of West Virginia, Janet C. Hall and Christopher Droney, each to be a United States District Judge for the District of Connecticut, Joseph F. Bataillon, to be United States District Judge for the District of Nebraska, Sophia H. Hall, of Illinois, to be a Member of the Board of Directors of the State Justice Institute, James Allan Hurd Jr., to be United States Attorney for the District of the Virgin Islands, and Sharon J. Zealey, to be United States Attorney for the Southern District of Ohio.

## REFUGEE ADMISSIONS

*Committee on the Judiciary:* Subcommittee on Immigration concluded hearings to examine the President's proposed annual refugee admissions and allocation for fiscal year 1998, after receiving testimony from Phyllis Oakley, Assistant Secretary, Bureau of Population, Refugee and Migration, Department of State; Joseph Cuddihy, Acting Associate Commissioner for Field Operations, Immigration and Naturalization Service, Department of Justice; Lavinia Limon, Director of Office of Refugee Resettlement, Department of Health and Human Services; Elizabeth Ferris, Committee on Migration and Refugee Affairs/InterAction, and John Fredriksson, Immigration and Refugee Services of America/U.S. Committee for Refugees, both of Washington, D.C.; Norman D. Tilles, Hebrew Immigrant Aid Society, New York, New York; and Amela Sutovic and Khuong Le, both former refugees.

## SENATE FLOOR ACCESS/SENATE ELECTION

*(Correction to Page D869)*

*Committee on Rules and Administration:* Committee ordered favorably reported the following resolution:

S. Res. 110, to permit an individual with a disability access to the Senate floor to bring necessary supporting aids and services; and the Committee favorably adopted the following motion:

*Passed by the Committee, July 31, 1997.*

## COMMITTEE ON RULES AND ADMINISTRATION—COMMITTEE MOTION

The Committee hereby authorizes the Chairman to continue the investigation of the 1996 election for United States Senator from Louisiana authorized by the Committee Motion of April 17, 1997;

The Committee further hereby authorizes the Chairman to request the United States Attorney General to detail to the Committee six investigative agents from the Federal Bureau of Investigation, and to hire other investigators, including retired FBI agents, as employees of the Committee;

The Committee further hereby finds that this investigation is directly related to campaign reform and authorizes the Chairman to use the majority's share of the $450,000 authorized by S. Res. 39 for the purposes of this investigation;

The Committee further hereby authorizes the Chairman, in his discretion, to cooperate with the Department of Justice, the East Baton Rouge District Attorney, and other investigative authorities;

The Committee further hereby authorizes the Chairman, in his discretion, to establish procedures permitting controlled access to Committee documents related to this investigation, ensuring that the minority's rights to access Committee documents are protected under Senate Rules;

The Committee further hereby authorizes the Chairman, in his discretion, to designate as confidential, pursuant to Standing Rule 29 of the Senate, Committee documents and information related to this investigation;

The Committee further hereby determines that the hearings conducted as part of this investigation, during which testimony is to be taken from witnesses, shall be closed pursuant to Standing Rule 26(b)(3);

The Committee further hereby amends the Committee Motion passed on April 17:

1. By substituting the following for section A, titled *''Full Committee subpoenas'';*

A. *Subpoenas:* The Chairman is authorized to issue subpoenas, with notice to the Ranking Member, to any individual, organization, corporation, or other entity who has or is believed to have, documents or other information related to the Committee's investigation;

2. By substituting the following for section E, titled *''Full Committee depositions'';*

E. *Depositions:* Sworn testimony shall be taken at a closed hearing, in accordance with Senate and Committee rules.

3. By deleting the last sentence of section F, titled *''Interviews and General Inquiry'';*

And the Committee further hereby states that sections B, C, D, G, H and the unamended portion of section F of the Committee Motion, passed by the Committee on April 17, 1997, remain in effect regarding this investigation.''

# House of Representatives

## *Chamber Action*

Bills Introduced: 57 public bills, H.R. 2316–2372; and 15 resolutions, H.J. Res. 90–93, H. Con. Res. 136–140, and H. Res. 207–212, were introduced.

**Pages H6703–06**

Reports Filed: Reports were filed today as follows:

H. Res. 206, waiving points of order against the conference report to accompany H.R. 2014, to provide for reconciliation pursuant to subsections (b)(2) and (d) of section 105 of the concurrent resolution on the budget for fiscal year 1998 (H. Rept. 105–221);

H.R. 1211, a private bill, for the relief of Global Exploration and Development Corporation, Kerr-McGee Corporation, and Kerr-McGee Chemical Corporation, amended (H. Rept. 105–222);

H.R. 998, a private bill, for the relief of Lloyd B. Gamble (H. Rept. 105–223);

H.R. 1370, to reauthorize the Export-Import Bank of the United States, amended (H. Rept. 105–224);

H.R. 1502, to designate the United States Courthouse located at 301 West Main Street in Benton, Illinois, as the ''James L. Foreman United States Courthouse'' (H. Rept. 105–225);

H.R. 1484, to redesignate the Dublin Federal Courthouse building located in Dublin, Georgia, as the J. Roy Rowland Federal Courthouse, amended (H. Rept. 105–226);

H.R. 1479, to designate the Federal building and United States courthouse located at 300 Northeast First Avenue in Miami, Florida, as the ''David W. Dyer Federal Courthouse'', amended (H. Rept. 105–227);

H.R. 994, to designate the United States border station located in Pharr, Texas, as the ''Kika de la Garza United States Border Station'' (H. Rept. 105–228);

H.R. 962, to redesignate a Federal building in Suitland, Maryland, as the ''W. Edwards Deming Federal Building'' (H. Rept. 105–229);

H.R. 892, to redesignate the Federal building located at 223 Sharkey Street in Clarksdale, Mississippi, as the ''Aaron Henry United States Post Office'', amended (H. Rept. 105–230);

H.R. 643, to designate the United States courthouse to be constructed at the corner of Superior and Huron Roads, in Cleveland, Ohio, as the ''Carl B. Stokes United States Courthouse'' (H. Rept. 105–231);

H.R. 613, to designate the Federal building located at 100 Alabama Street NW, in Atlanta, Georgia, as the ''Sam Nunn Federal Center'', amended (H. Rept. 105–232);

H.R. 595, to designate the Federal building located at 100 Alabama Street NW, in Atlanta, Georgia, as the ''Sam Nunn Federal Center'' (H. Rept. 105–233);

H.R. 548, to designate the United States courthouse located at 500 Pearl Street in New York City, New York, as the ''Ted Weiss United States Courthouse'' (H. Rept. 105–234);

H.R. 81, to designate the United States courthouse located at 401 South Michigan Street in South Bend, Indiana, as the ''Robert K. Rodibaugh United States Bankruptcy Courthouse'' (H. Rept. 105–235); and

H.R. 2204, to authorize appropriations for fiscal years 1998 and 1999 for the Coast Guard, amended (H. Rept. 105–236). **Pages H6702–03**

Guest Chaplain: The prayer was offered by the guest Chaplain, the Reverend Don Bowen of Alexandria, Virginia. **Page H6619**

Taxpayer Relief Act of 1997: By a yea and nay vote of 389 yeas to 43 nays, Roll No. 350, the House agreed to the conference report on H.R. 2014, to provide for reconciliation pursuant to subsections (b)(2) and (d) of section 105 of the concurrent resolution on the budget for fiscal year 1998. **Pages H6623–65**

Agreed to H. Res. 206, the rule waiving points of order against the conference report, by a voice vote. Earlier, agreed to the Dreier amendment to the rule that increased the debate time on the bill from two and one-half hours to three hours. **Pages H6623–30**

Technical Corrections: The House agreed to H. Con. Res. 138, to correct technical errors in the enrollment of H.R. 2014, the Taxpayer Relief Act. **Page H6680**

Waiving Certain Enrollment Requirements: Considered by unanimous consent, the House passed H.J. Res. 90, waiving certain enrollment requirements with respect to two specified bills of the One Hundred Fifth Congress. Subsequently, H. Res. 203, the rule to provide for its consideration was laid on the table. **Page H6667**

August District Work Period: By a yea and nay vote of 403 yeas to 16 nays, Roll No. 351, the House agreed to H. Con. Res. 136, providing for the adjournment of both Houses of Congress for the August District Work Period. **Pages H6666–67**

Order of Business—Labor, HHS, and Education Appropriations: Agreed by unanimous consent that (1) the Speaker may at any time, as though pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of H.R. 2264, making appropriations for the Department of Labor, Health and Human Services, and Education,

and related agencies, for the fiscal year ending September 30, 1998; (2) the first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. (3) Points of order against provisions in the bill for failure to comply with clause 2 or 6 of rule XXI are waived except as follows: beginning with ": Provided" on page 41, line 26, through "$2,245,000,000" on page 42, line 3. Where points of order are waived against part of a paragraph, points of order against a provision in another part of such paragraph may be made only against such provision and not against the entire paragraph. (4) The amendments printed in House report 105–214 may be offered only by a Member designated in the report and only at the appropriate point in the reading of the bill, shall be considered as read, shall not be subject to amendment except pro forma amendments offered for the purpose of debate, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against the amendments printed in the report are waived. (5) During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. (6) The chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. (7) During consideration of the bill, points of order against amendments for failure to comply with clause 2(e) of rule XXI are waived. (8) At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. (9) Notwithstanding any other provisions of this order, it shall be in order to consider in lieu of amendments numbered 1 and 2 in House Report 105–214 the amendment read by the Clerk, and that amendment shall otherwise be considered as though printed as the amendment numbered 1 in House Report 105–214. (10) H. Res. 199, the rule to provide for its consideration, was laid on the table. **Pages H6667–68, H6669**

Election of Chief Administrative Officer: The House agreed to H. Res. 207, electing Jay Eagen of the Commonwealth of Pennsylvania Chief Administrative Officer of the House of Representatives. Subsequently, Mr. Eagen presented himself in the well and was administered the oath of office by the Speaker. **Pages H6669–71**

International Dolphin Conservation Program: The House concurred in the Senate amendment to H.R. 408, to amend the Marine Mammal Protection Act of 1972 to support the International Dolphin Conservation Program in the eastern tropical Pacific Ocean—clearing the measure for the President. **Pages H6671–77**

Honoring the Life of Betty Shabazz: The House agreed to H. Res. 183, honoring the life of Betty Shabazz. **Pages H6677–78**

Committee Resignations: Read a letter from Representative Weygand wherein he requested a leave of absence from the Committee on Small Business and read a letter from Representative McKinney wherein she resigned from the Committee on Banking and Financial Services. Subsequently, and without objection, the resignations were accepted. **Page H6678**

Committee Election: The House agreed to H. Res. 208, electing Representative Weygand to the Committee on Banking and Financial Services and Representative McKinney to the Committee on National Security. **Page H6678**

Late Report—Treasury Appropriations: Committee on Appropriations received permission to have until midnight on Tuesday, August 5, 1997 to file a report on a bill making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain independent Agencies for the fiscal year ending September 30, 1998. **Page H6679**

Order of Business—Foreign Operations Appropriations Act: Agreed by unanimous consent that during further consideration of H.R. 2159, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1998, pursuant to the order of the House of July 24, 1997, no other amendment shall be in order (except pro forma amendments offered for the purpose of debate) unless printed before August 1, 1997, in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. **Page H6678**

India and Pakistan Independence: The House agreed to H. Res. 157, congratulating the people of India and Pakistan on the occasion of the 50th anniversary of their nations' independence. **Pages H6679–80**

Antidumping Duties on High Fructose Corn Syrup: The House agreed to S. Con. Res. 43, urging the United States Trade Representative immediately

to take all appropriate action with regards to Mexico's imposition of antidumping duties on United States high fructose corn syrup. **Pages H6680–82**

Legislative Counsel of the House of Representatives: Read a letter from David E. Meade wherein he resigned from his position as Legislative Counsel of the House. Subsequently, the Speaker accepted the resignation and appointed M. Pope Barrow, Jr., Legislative Counsel of the House of Representatives. **Page H6682**

Presidential Messages: Read the following messages from the President:

*Continuation of Iraqi Emergency:* Message wherein he transmitted his notice stating that the Iraqi emergency is to continue in effect—referred to the Committee on International Relations and ordered printed (H. Doc. 105–113); and **Page H6682**

*National Emergency Re Iraq:* Message wherein he transmitted his report on the developments since February 10, 1997 concerning the national emergency with respect to Iraq—referred to the Committee on International Relations and ordered printed (H. Doc. 105–114). **Pages H6682–84**

Resignations—Appointments: It was made in order that notwithstanding any adjournment of the House until Wednesday, September 3, 1997, the Speaker, Majority Leader, and Minority Leader be authorized to accept resignations and to make appointments authorized by law or by the House. **Page H6684**

Extension of Remarks: It was made in order that for today and tomorrow all members be permitted to extend their remarks and to include extraneous material in that section of the Record entitled ''Extension of Remarks''. **Page H6684**

Calendar Wednesday: Agreed to dispense with Calendar Wednesday business of Wednesday, September 3, 1997. **Page H6684**

Senate Messages: Messages received from the Senate today appear on pages H6619, H6623, H6684, and H6694.

Amendments: Amendments ordered printed pursuant to the rule appear on page H6708.

Quorum Calls—Votes: One quorum call (Roll No. 349) and two yea-and-nay votes developed during the proceedings of the House today and appear on pages H6662, H6664–65, and H6666–67.

Adjournment: Met at 10:00 a.m. and adjourned at 8:55 p.m.

# *Committee Meetings*

## TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS

*Committee on Appropriations:* Ordered reported the Treasury, Postal Service, and General Government appropriations for fiscal year 1998.

## NUCLEAR WASTE POLICY ACT

*Committee on Commerce:* Subcommittee on Energy and Power approved for full Committee action amended H.R. 1270, Nuclear Waste Policy Act of 1997.

## LITERACY: A REVIEW OF CURRENT FEDERAL PROGRAMS

*Committee on Education and the Workforce:* Held a hearing on ''Literacy: A Review of Current Federal Programs''. Testimony was heard from public witnesses.

## FEDERAL RETIREMENT—AGENCY MISTAKES

*Committee on Government Reform and Oversight:* Subcommittee on Civil Service held a hearing on ''Agency Mistakes in Federal Retirement: Who Pays the Price?'' Testimony was heard from William E. Flynn, Associate Director, Retirement and Insurance Service, OPM; Diane Disney, Deputy Assistant Secretary, Civilian Personnel, Department of Defense; from the following officials of the Department of the Treasury: Linda Oakey-Hemphill, Agency Retirement Counselor; and Sarah Hall-Ingram, Associate Chief Counsel, Employee Benefits/Exempt Organizations, IRS.

## FDA OVERSIGHT

*Committee on Government Reform and Oversight:* Subcommittee on Human Resources held an oversight hearing on ''FDA Oversight: Blood Safety and the Implications of Pool Sizes in the Manufacture of Plasma Derivatives''. Testimony was heard from the following officials of the Department of Health and Human Services: David Satcher, M.D., Director, Centers for Disease Control and Prevention; Paul W. Brown, M.D., Senior Research Scientist, Laboratory of Central Nervous System Studies, National Institute of Neurological Disorders and Stroke, NIH; and Kathryn Zoon, Director, Center for Biologics Evaluation and Research, FDA; and public witnesses.

## PRIVATE BILL

*Committee on the Judiciary:* Subcommittee on Immigration and Claims approved a motion to request a report by the Immigration and Naturalization Service on a private bill.

## OVERSIGHT

*Committee on Resources:* Subcommittee on Energy and Mineral Resources held an oversight hearing on Royalty-In-Kind for Federal oil and gas production. Testimony was heard from Cynthia L. Quarterman, Director, Minerals Management Service, Department of the Interior; Jim Magagna, Director, Office of State Lands and Investments, Office of Federal Land Policy, State of Wyoming; Spencer Reid, Deputy Land Commissioner, General Land Office, State of Texas; David Darouse, Mineral Revenue Regional Auditor Supervisor, Department of Natural Resources, State of Louisiana; and public witnesses.

MISCELLANEOUS MEASURES

*Committee on Resources:* Subcommittee on Fisheries Conservation, Wildlife and Oceans approved for full Committee action the following bills: H.R. 512, New Wildlife Refuge Authorization Act of 1997; H.R. 1856, amended, Volunteers for Wildlife Act of 1997; and H.R. 2233, Coral Reef Conservation Act of 1997.

The Subcommittee also held a hearing on H.R. 1787, the Asian Elephant Conservation Act of 1997. Testimony was heard from Marshall P. Jones, Assistant Director, International Affairs, U.S. Fish and Wildlife Service, Department of the Interior; and public witnesses.

OVERSIGHT

*Committee on Resources:* Subcommittee on Forests and Forest Health oversight hearing on Forest Service Strategic Plan under the Government Performance and Results Act. Testimony was heard from Barry Hill, Associate Director, Energy, Resources and Science Issues, Resources, Community and Economic Development Division, GAO; and the following officials of the USDA: James R. Lyons, Under Secretary, Natural Resources and Environment; and Francis Pandolsi, Chief of Staff, Forest Service.

MISCELLANEOUS MEASURES

*Committee on Resources:* Subcommittee on National Parks and Public Lands approved for full Committee action amended the following bills: H.R. 1567, to provide for the designation of additional wilderness lands in the eastern United States; H.R. 136, to amend the National Parks and Recreation Act of 1978 to designate the Marjory Stoneman Douglas Wilderness and to amend the Everglades National Park Protection and Expansion Act of 1989 to designate the Ernest F. Coe Visitor Center; and H.R. 708 to require the Secretary of the Interior to conduct a study concerning grazing use of certain lands within and adjacent to Grand Teton National Park, Wyoming, and to extend temporarily certain grazing privileges.

CONFERENCE REPORT—TAXPAYER RELIEF ACT

*Committee on Rules:* Granted, by voice vote, a rule waiving all points of order against the conference report to accompany H.R. 2014, Taxpayer Relief Act of 1997, and against its consideration and provides that the conference report shall be considered as read. The rule provides two hours and thirty minutes of debate equally divided and controlled between the chairman and ranking minority member of the Committee on Ways and Means. Testimony was heard from Chairman Archer and Representative Rangel.

ENERGY CONSERVATION PROGRAMS EXTENSION

*Committee on Science:* Subcommittee on Energy and Environment held a hearing on S. 417, to extend energy conservation programs under the Energy Policy and the Conservation Act through September 30, 2002. Testimony was heard from Allan R. Hoffman, Acting Deputy Assistant Secretary, Office of Utility Technologies, Department of Energy; and public witnesses.

U.S. AND FRANCE—AVIATION RELATIONS

*Committee on Transportation and Infrastructure:* Subcommittee on Aviation held a hearing on Aviation Relations between the U.S. and France. Testimony was heard from Representative Klink; Charles Hunnicut, Assistant Secretary, Aviation and International Affairs, Department of Transportation; and public witnesses.

## COMMITTEE MEETINGS FOR FRIDAY, AUGUST 1, 1997

*(Committee meetings are open unless otherwise indicated)*

### Senate

*Committee on the Judiciary,* Subcommittee on Administrative Oversight and the Courts, to hold hearings to examine the negative impact of bankruptcy on local education funding, 10 a.m., SD–226.

### House

No committee meetings are scheduled.

### Joint Meetings

*Joint Economic Committee,* to hold hearings to examine the employment-unemployment situation for July, 9:30 a.m., 1334 Longworth Building.

*Next Meeting of the* SENATE

11 a.m., Tuesday, September 2

Senate Chamber

Program for Tuesday: Senate will consider S. 1061, Labor/HHS Appropriations, 1998, and H.R. 2160, Agriculture Appropriations, 1998.

*Next Meeting of the* HOUSE OF REPRESENTATIVES

9 a.m., Friday, August 1

House Chamber

Program for Friday: No legislative business.

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